

## The P5+1, Iran and the Perils of Nuclear Brinkmanship

### I. OVERVIEW

The nuclear negotiations between Iran and the West have had their share of dashed expectations, but even by this peculiar standard, the recent diplomatic roller coaster stands out. Brimming with hope in Istanbul, negotiators crashed to earth in Baghdad, a few weeks later. That was not unexpected, given inflated hopes, mismatched expectations and – most hurtful – conviction on both sides that they had the upper hand. But if negotiations collapse now, it is hard to know what comes next. Washington and Brussels seem to count on sanctions taking their toll and forcing Iran to compromise. Tehran appears to bank on a re-elected President Obama displaying more flexibility and an economically incapacitated Europe balking at sanctions that could boomerang. Neither is likely; instead, with prospects for a deal fading, Israeli pressure for a military option may intensify. Rather than more brinkmanship, Iran and the P5+1 (UN Security Council permanent members and Germany) should agree on intensive, continuous, technical-level negotiations to achieve a limited agreement on Iran's 20 per cent enrichment.

The optimism that greeted the Istanbul talks largely was illusory. Success was measured against a remarkably negative starting point – the absence of talks for the preceding fifteen months and a series of escalatory steps by all sides in the interim. The discussions themselves were largely devoid of polemics, but they also were largely devoid of substance. All were on their best behaviour because, tactically, all shared a common goal: to gain time and avoid a crisis that could lead to an Israeli military strike, risk further instability in the region, send oil prices soaring and thus complicate both Europe's recovery and Obama's re-election.

The problem is that the West and Iran interpreted the positive atmosphere differently. Officials from Europe and the U.S. were persuaded that Tehran's agreement to come to the table and its non-belligerency once there stemmed principally from two realities: the devastating impact of sanctions that already have been imposed on the Iranian economy and the even more devastating impact of those that are soon to come on the one hand; and Israeli military threats on the other. The Islamic Republic also felt that it

was in the driver's seat, having strengthened its position over the preceding year by increasing its stockpile of low-enriched uranium, enriching at higher levels and completing its work on the underground nuclear facility at Fordow. With both feeling relatively strong, neither was in a mood to give in.

The two sides' intensive efforts to increase their leverage had another paradoxical effect. The U.S. and European Union (EU) built a remarkable – and, not long ago, unthinkable – coalition of countries willing to punish Iran by hitting where it hurts most, the oil sector. To agree to any sanctions relief is made all the more difficult by the considerable effort and political capital invested in achieving them and by the knowledge that the first sign of rollback could prompt a far more comprehensive unravelling of the sanctions regime. In like manner, Iran paid a huge price for its decision to enrich at 20 per cent and forge ahead at Fordow – becoming the target of unprecedented economic penalties and losing vast amounts of money. Any retreat on these matters would have to be accompanied by momentous Western concessions lest the entire enterprise appear to be what many suspect it to be: a political and economic folly. The ironic end result is this: having accumulated precious assets that bolstered their hand in negotiations, both parties are now loathe to use the leverage they sacrificed so much to acquire.

Many predict that the current diplomatic process soon will come to a halt, with the expectation it will resume in the future. But time could be short. If negotiations collapse, precedent teaches that reciprocal escalatory steps are likely and that the hiatus will last longer than anticipated. Meanwhile, Israel – together with some influential U.S. politicians – will look at the clock ticking and Iran continuing to bolster its stockpile of enriched uranium. The clock metaphor is false – Iran is years away from acquiring a bomb, and the U.S. and Israel will have ample means, Fordow notwithstanding, to halt its nuclear program if they so choose – and one of the most damaging political images in recent history. But no matter. Senior Israeli officials believe it, and if they are persuaded that Iran is playing for time and Western nations are too spineless to do anything about it, they might act or convince Washington to act. The period until the U.S. November election is arguably the most perilous of all.

All this argues for a change in thinking. The Moscow meeting on 18 June should be used an opportunity to do just that. To begin:

- instead of periodic, one- or two-day high-level, higher-stakes meetings, Iran and the P5+1 should agree on uninterrupted talks at a somewhat lower level for several months;
- moreover, both sides need to drop some of their demands: there will not be significant sanctions relief at this stage, and it is equally unlikely that Iran will shut down Fordow – the only installation it possesses that could resist an Israeli strike.

Instead:

- Iran should be prepared to put on the table items that would seriously and realistically address the P5+1's proliferation concerns: suspending its enrichment at 20 per cent; converting its entire stockpile of 20 per cent uranium hexafluoride into uranium dioxide pellets to be used for nuclear fuel fabrication; and freezing the installation of new centrifuges at Fordow, while agreeing to use the facility for research and development purposes alone and accepting more intrusive monitoring;
- the P5+1 should be willing to put on the table items that genuinely address Iranian concerns: accepting up-front the principle that Iran can enrich on its soil subject, until Tehran clarifies matters with the IAEA, to limitations on the level of purity and number of facilities; investing in a new research reactor and cutting-edge technologies related to renewable energies in Iran; and extending some form of sanctions relief, including one or more of the following: refraining from additional sanctions, postponing for a specified period entry into force of (or, if already in force, suspending) the EU oil embargo and/or ban on insurance for ship owners transporting Iranian oil; and easing pressure on Iran's remaining oil customers.

The talks could well fail, and then the goal will be to avert all kinds of destructive steps, including military confrontation, the most destructive of all. But, before reaching that phase, there is much work to do to see if a deal can be reached and if what little optimism is left over from Istanbul can still be salvaged.

## II. FROM THE BANKS OF THE BOSPORUS TO THE SHORES OF THE TIGRIS

After fifteen months of diplomatic stagnation – punctuated by mysterious assassinations, sanctions, sabotage and sabre-rattling – negotiations between Iran and the P5+1 finally resumed on 14 April.<sup>1</sup> Although it dealt mainly with generalities, the meeting in Istanbul gave rise to some optimism that an agreement – however narrow in scope – might be reached and, with it, that precious time would be gained for a broader diplomatic resolution. Those hopes quickly were dashed. The 23-24 May gathering in Baghdad served as a sober reminder of the obstacles that stand in front of even a limited settlement.

To a large extent, the positive atmosphere that prevailed in the wake of Istanbul was based on mutual misperceptions and mismatched expectations. The discrepancy began with the two sides' interpretation of what precisely had occurred. As the U.S. and its European partners saw it, reasons behind Iran's agreement to resume talks and drop its previous preconditions – recognition of its right to enrich and removal of crippling sanctions – were straightforward: the enormous costs of sanctions that already had been imposed on Iran's energy and financial sectors; Tehran's fear of the ones about to come into effect; and Israel's repeated threats of war.<sup>2</sup>

As evidence, they pointed to the dramatic drop in Iran's export of crude oil, a reflection of the decision made by numerous countries under Western pressure to wean themselves from Iranian oil.<sup>3</sup> More draconian sanctions – namely

<sup>1</sup> For detailed background on events that occurred between January 2011 and February 2012, see Crisis Group's Middle East and Europe Report N°116, *In Heavy Waters: Iran's Nuclear Program, the Risk of War and Lessons from Turkey*, 23 February 2012.

<sup>2</sup> Crisis Group interviews, senior U.S. and EU officials, Washington, Brussels, April and May 2012. According to David Cohen, U.S. Treasury Under-Secretary for Terrorism and Financial Intelligence: "They [Iran] are increasingly isolated – diplomatically, financially and economically .... I don't think there is any question that the impact of this pressure played a role in Iran's decision to come to the table". Quoted in *The Washington Post*, 13 May 2012.

<sup>3</sup> According to an Iranian expert, the EU oil embargo – due to come into effect on 1 July – already is virtually 85 per cent operational, as most European nations have cut down on their imports from Iran, signed new contracts with other oil exporters and reconfigured their refineries accordingly. Crisis Group interview, Bijan Khajepour, Vienna, 17 May 2012. Although Iran's oil production remained steady at 3.3 million barrels a day in April, it was unable to sell 15 to 25 per cent of that amount, because of financial sanctions and problems with insuring oil shipments, and was compelled to pump it into floating storage tankers. This storage space will be filled in a matter of months, forcing Iran to shut down some of its fields. Reviving Iran's

extraterritorial U.S. penalties on the Central Bank of Iran (CBI) and an EU oil embargo, scheduled for 28 June and 1 July, respectively – loomed on the horizon.<sup>4</sup> Iran's economy – already mired in recession due to mismanagement – inarguably is suffering and, as Washington and Brussels see it, its leaders were eager to stop the haemorrhaging.<sup>5</sup>

A visibly satisfied U.S. official said, "Iran came to the talks from a position of weakness. Gone were the preconditions and lectures of the past – they are desperate for sanctions relief and it showed".<sup>6</sup> A senior EU official echoed this view: "Sanctions were the main impetus for Iran's return to the negotiating table. For the Iranian regime, survival is key. The leaders in Tehran know that part of the change in the region, in countries like Egypt, resulted from economic problems. And Iran's economy is in real trouble now".<sup>7</sup>

The impact of sanctions, threats of war, Ayatollah Khamenei's marginalisation of all potential political foes<sup>8</sup> and the

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aged oil wells likely would result in the loss of 10 to 14 per cent of the country's production capacity due to corrosion in wells and pipelines as well as loss of pressure. Compounded by chronic under-investment, these problems would adversely impact oil production. See "Iran: Promise, peril behind Tehran's demand for quick sanctions relief", *Energy Intelligence*, 25 May 2012; James Herron, "IEA: Iran oil exports fall sharply in April as sanctions tighten", *The Wall Street Journal*, 11 May 2012.

<sup>4</sup> Canada and Britain sanctioned the Central Bank of Iran in November 2011; the U.S. followed suit on 31 December 2011, when President Obama signed the FY2012 U.S. National Defence Authorization Act (P.L. 112-81). Section 1245 blocks access to the U.S. financial system for countries that continue to process payments through the Central Bank of Iran (CBI); it applies to non-oil related transactions with the CBI 60 days after enactment (ie, 29 February 2012) and oil-related transactions after 180 days (ie, 28 June). The president can waive the provision as applied to foreign banks for a renewable period of 180 days if he certifies that the bank's parent country has significantly reduced its oil purchases from Iran. The president also can waive enforcement of the sanctions for a renewable period of 120 days on national security grounds. See Kenneth Katzman, "Iran Sanctions", Congressional Research Service, 23 April 2012. The EU announced an embargo on Iranian oil on 23 January 2012 that is due to take full effect on 1 July and that also prohibits insuring shipments of Iranian oil. The text of the European Council decision is available at <http://eur-lex.europa.eu>.

<sup>5</sup> Crisis Group interviews, Iranian economist, Dubai, April 2012; EU official, Brussels, May 2012.

<sup>6</sup> Crisis Group interview, Washington DC, April 2012.

<sup>7</sup> Crisis Group interview, Brussels, May 2012.

<sup>8</sup> Although the Supreme Leader, as the ultimate arbiter of his nation's domestic and foreign policies, always set its nuclear agenda, his fingerprints on the nuclear file are now omnipresent. This was not always the case. In 2003 President Mohammad Khatami secured Khamenei's assent to a voluntary suspension of all uranium enrichment activities notwithstanding the Leader's distrust of Western intentions. In 2009, President Mah-

reiteration of his *fatwa* (religious edict) against nuclear weapons – in which he called them "cardinal sin"<sup>9</sup> – and rare praise from the Supreme Leader for President Obama, led many in the West to believe that Iran, under duress, might be seeking a path to compromise.<sup>10</sup>

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moud Ahmadinejad initially agreed to a deal in which Iran would swap low-enriched uranium for fuel rods for use in the Tehran Research Reactor but was forced to renege, reportedly due to Khamenei's resistance. In both instances, Khamenei was the pre-eminent decision-maker, but he had to contend with others. During the past three years, reformists who had been at the forefront of the popular uprising in the aftermath of the 2009 disputed presidential elections were marginalised, and President Ahmadinejad, who fell from grace after a public rift with the Leader in 2011, was significantly undercut and sidelined. As a result, Khamenei currently appears to be in a position to call the shots, having gained total control of the diplomatic process. Crisis Group interview, former Iranian official, Washington DC, April 2012. Tellingly, Saeed Jalili, Iran's chief nuclear negotiator, was introduced at the Istanbul talks as the "representative of the Supreme Leader" rather than as secretary of Iran's National Security Council, as had been the case previously. See James Risen, "Seeking nuclear insight in fog of the Ayatollah's utterances", *The New York Times*, 13 April 2012. <sup>9</sup> Ayatollah Khamenei added: "The Iranian nation has never pursued and will never pursue nuclear weapons. There is no doubt that the decision-makers in the countries opposing us know well that Iran is not after nuclear weapons because the Islamic Republic, logically, religiously and theoretically, considers the possession of nuclear weapons a cardinal sin and believes that the proliferation of such weapons is senseless, destructive and dangerous". Quoted in Press TV, 22 February 2012. According to Ali Asghar Soltanieh, Iran's ambassador at the IAEA, "Iran is willing to help the West find a face-saving solution out of the crisis. The Supreme Leader's nuclear *fatwa* has provided a perfect framework for achieving this goal. Doubts about the *fatwa* are irrelevant. Our track record is clear. We have proven in practice that we are against using weapons of mass destruction, as we opted not to retaliate against Saddam's use of chemical weapons during the Iran-Iraq War. Additionally, as the Supreme Leader is both a religious leader and the commander-in-chief, implementation of his edicts is compulsory". Crisis Group interview, Vienna, 16 May 2012. Hassan Rowhani, former chief Iranian nuclear negotiator said, "this *fatwa* is more important to us than the NPT and its Additional Protocol, more important than any other law". Interview with *Mehr Nameh* magazine (in Persian), May 2012. For a far more sceptical view of the impact and importance of the *fatwa*, see Michael Eisenstadt and Mehdi Khalaji, "Nuclear Fatwa: Religion and Politics in Iran's Proliferation Strategy", The Washington Institute for Near East Policy, Washington DC, September 2011.

<sup>10</sup> Khamenei lauded Obama's remarks in defence of diplomacy, which he made most notably at the annual meeting of the American Israeli Public Affairs Committee (AIPAC) in March 2012. Obama said, "... both Israel and the United States have an interest in seeing this challenge resolved diplomatically. After all, the only way to truly solve this problem is for the Iranian government to make a decision to forsake nuclear weapons. That's

Iran, too, presented the talks as evidence that its strategy was working. In mirror image, its officials explained that the West's renewed interest in diplomacy stemmed from weakness: a desperate need to tame oil prices and avert a military confrontation in the run-up to U.S. presidential elections and amid an unprecedented economic crisis in Europe.<sup>11</sup>

Reality is more nuanced than either side would like to project. From a tactical point of view, Tehran, Washington and Brussels all had an interest in buying time and avoiding a crisis in the short term. Sanctions evidently have taken their toll, and there is ample precedent for Iran coming to the table and even showing some flexibility before a new round of penalties is about to be imposed.<sup>12</sup> By the same token, the U.S. administration is intent on avoiding an Israeli strike in the coming months; in the absence of diplomatic progress, pressure from Prime Minister Benjamin Netanyahu is likely to grow. Brussels, too, facing economic meltdown in Greece and possibly elsewhere, can ill afford spiralling tensions over Iran's nuclear program at this time.

But the weakness and desperation each side attributed to the other was both vastly exaggerated and led to misguided and dangerous conclusions. As Crisis Group has pointed out, there is no evidence that sanctions can affect Tehran's fundamental strategic choices; moreover, from Supreme Leader Khamenei's perspective, surrendering to sanctions is far more perilous than suffering its consequences.<sup>13</sup> More-

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what history tells us. Moreover, as President and Commander-in-Chief, I have a deeply held preference for peace over war. ... Already, there is too much loose talk of war". Remarks by the President at AIPAC Policy Conference, White House Press Office, 4 May 2012. According to the Supreme Leader's website, Khamenei reacted to Obama's speech by saying, "this talk is good talk and shows an exit from illusion", but cautioned that "the U.S. president continued saying that he wants to make the Iranian people kneel through sanctions, this part of this speech shows the continuation of illusion on this issue". See Scott Peterson, "Iran offers rare praise for 'the Great Satan'", *Christian Science Monitor*, 8 March 2012.

<sup>11</sup> "چرا امریکا با خشاب خالی به میز مذاکره ایران و 5+1 می آید؟" ["Why the U.S. comes to the negotiating table with an empty gun?"], *Raja News*, 10 April 2012. "چرا نیاز غرب به مذاکره بیشتر از ایران است؟" ["Why the West needs negotiations more than Iran does?"], *Fars News Agency* (in Persian), 23 May 2012.

<sup>12</sup> In 2010, on the eve of a UN Security Council meeting to consider a new round of sanctions, Iran agreed to a revised swap deal pursuant to which it would trade its low-enriched uranium for fuel rods that would be used in the Tehran Research Reactor. The deal was negotiated by Turkey and Brazil. See Crisis Group Report, *In Heavy Waters*, op. cit.

<sup>13</sup> Mohammad Ali Fayaz, Iran's ambassador to the United Arab Emirates, said, "in designing the sanctions regime, the West has shown itself incapable of understanding that Iran is a *sui generis* state. A country with the size of Iran and its long history of

over, Iran almost certainly came to the talks believing it had some strong assets of its own that arguably put it in a stronger position than in the past: its growing stock of enriched uranium, its higher level of enrichment (up to 20 per cent) and construction of the underground facility at Fordow.<sup>14</sup> Reflecting this sense of self-confidence, Ali Asghar Soltanieh, Iran's ambassador at the IAEA, said:

The main difference between Istanbul I<sup>15</sup> and II was that Iran is in a much better position. Iran gained the upper hand by advancements in producing 20 per cent enriched uranium, inauguration of the Bushehr nuclear power plant and becoming self-reliant in manufacturing fuel rods for the Tehran Research Reactor. Moreover, our nuclear program is now better protected in the [underground] Fordow facility, which was created as a result of the bellicose rhetoric and threats of Israel and the U.S.<sup>16</sup>

In other words, though its willingness to resume talks might well have been largely driven by a desire to delay sanctions or drive a wedge between the U.S. and European countries on the one hand and Russia and China on the other, that should be equated neither with desperation nor readiness to compromise on core issues.

Iran's assumptions about the West, and notably the U.S., likewise appear to be one-sided. There appears to be little doubt that the administration strongly opposes an Israeli strike at this point, for both substantive reasons (the U.S. is not convinced that sanctions have run their course; is unpersuaded by Israel's argument that Iran's nuclear program is fast entering a so-called zone of immunity; and is

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mercantilism cannot be completely cut off from the world. Iran has fifteen neighbours through its sea and land borders. No other country has fifteen gates to the world. Comparing Iran with small states and islands [North Korea and Cuba] is misguided. Our nation is also unique. Our people have weathered many storms in the past, in particular the experience of the eight-year war [against Iraq] and have become more resilient and self-reliant. The West has continuously underestimated the endurance of the Iranian nation". Crisis Group interview, Abu Dhabi, 19 April 2012. For a discussion of the impact of sanctions, see Crisis Group Report, *In Heavy Waters*, op. cit.

<sup>14</sup> Some Iranians openly claim they have been buying time and constantly moving goalposts, thereby establishing new "facts on the ground" that gradually become legitimate. Hamidreza Taraghi, a conservative Iranian politician, explained that "[w]ithout violating any international laws or the non-proliferation treaty, we have managed to bypass the red lines the West created for us. We have managed to get our rights. All that remains is a debate over the percentage of enrichment". See Thomas Erdbrink, "Iran sees success in stalling on nuclear issue", *The New York Times*, 14 May 2012.

<sup>15</sup> The first meeting in Istanbul between the P5+1 and Iran took place on 22 January 2011. It ended in deadlock.

<sup>16</sup> Crisis Group interview, Vienna, 16 May 2012.

concerned about the impact of a military strike) and for political ones – war would provoke a spike in oil prices and damage Europe’s economy, further threatening the president’s re-election chances. But it almost certainly would be a misreading of the U.S. posture to assume that it would (or could) oppose a strike no matter what, even prior to the November elections. In the absence of any prospect for diplomatic progress, and if Iran were to engage in behaviour deemed provocative by Washington, the U.S. might not be able to resist Israeli pressures and might even reach the conclusion that it should take the lead militarily.

## A. FIRST ROUND OF TALKS IN ISTANBUL

In the run-up to the Istanbul meeting, both sides engaged in elaborate public messaging. Iran signalled a more positive attitude, expressing hope that the crisis could be comprehensively resolved,<sup>17</sup> as well as readiness to curb (to some extent) its uranium enrichment program,<sup>18</sup> as seen, Khamenei also reiterated the *fatwa* against possession and use of nuclear weapons and praised Obama. The U.S. likewise expressed hope in and strong preference for diplomacy; moreover, Obama reportedly used intermediaries to signal that an Iranian civilian nuclear program would be acceptable if the Supreme Leader were to back up his pledge to “never pursue nuclear weapons”.<sup>19</sup>

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<sup>17</sup> Iranian Foreign Minister Ali Akbar Salehi wrote: “If the intention of dialogue is merely to prevent cold conflict from turning hot, rather than to resolve differences, suspicion will linger. Trust will not be established. Despite sanctions, threats of war, assassinations of several of our scientists and other forms of terrorism, we have chosen to remain committed to dialogue. In the upcoming talks, we hope that all sides will return to the negotiating table as equals with mutual respect; that all sides will be committed to comprehensive, long-term dialogue aimed at resolving all parties’ outstanding concerns; and, most important, that all sides make genuine efforts to reestablish confidence and trust”. Ali Akbar Salehi, “Iran: We do not want nuclear weapons” *The Washington Post*, 12 April 2012.

<sup>18</sup> In September 2011, President Ahmadinejad had signalled Iran’s willingness to halt its 20 per cent enrichment in return for foreign supply of that material. See Nicholas Kristof, “An interview with Mahmoud Ahmadinejad”, *The New York Times*, 21 September 2011. A few days before the Istanbul meeting, Feridoun Abbasi, head of the Iranian Atomic Energy Organisation, suggested that Iran was prepared to eventually cap its enrichment to 5 per cent once the Tehran Research Reactor’s 20 per cent fuel needs were met. He stated that other uranium enrichment activities would be aimed at producing fuel for power generating reactors, which require[s] lower levels of purity. See Brian Murphy, “Iran offers possible nuclear compromise”, *The Boston Globe*, 10 April 2012.

<sup>19</sup> This verbal message allegedly was conveyed to Khamenei a few days before the Istanbul meeting by Turkish Prime Minister Recep Tayyip Erdoğan, who visited Tehran after a meeting

Substantively, of course, the gaps remained wide. Even as Tehran suggested it might take some action regarding its 20 per cent enrichment, the U.S. made clear it was expecting far more: not only a complete halt to the production of 20 per cent enriched uranium and the shipment of all existing stockpiles of that fuel out of the country, but also, crucially, immediate closure and ultimate dismantlement of the Fordow facility (a bunkered enrichment site deep under a mountain near Qom).<sup>20</sup>

The remarkably positive tone emerging from the talks was to an extent misleading; the discussions had remained at a very high level of generality, and none of the contentious issues had been dealt with. Still, the fact that there was agreement to another meeting, on 23 May in Baghdad, to be preceded by preparatory talks between deputies, was seen as encouraging.

The final statement of the meeting set the stage for the following steps:

We have agreed that the Non-proliferation Treaty (NPT) forms a key basis for what must be serious engagement, to ensure all the obligations under the NPT are met by Iran while fully respecting Iran’s right to the peaceful use of nuclear energy. We want now to move to a sustained process of serious dialogue, where we can take urgent practical steps to build confidence and lead on to compliance by Iran with all its international obligations. In our efforts to do so, we will be guided by the principle of the step-by-step approach and reciprocity.<sup>21</sup>

## B. THE DIPLOMATIC INTERREGNUM

The bullish atmosphere persisted for some time after the talks had concluded.<sup>22</sup> Both sides described them as “con-

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with President Obama in Seoul. See David Ignatius, “Obama’s signal to Iran”, *The Washington Post*, 5 April 2012.

<sup>20</sup> See David Sanger and Steven Erlanger, “U.S. defines its demands for new round of talks with Iran”, *The New York Times*, 7 April 2012.

<sup>21</sup> Statement by High Representative Catherine Ashton on behalf of the E3+3 following the talks with Iran, Istanbul, 14 April 2012, available at [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/129535.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/129535.pdf). Jalili’s statements after the meeting were published by the *Kayhan* newspaper, “ادامه مذاکرات با رویکرد گام به گام ایستگاه بعدی بغداد” [“Negotiations will continue on a step-by-basis, next stop Baghdad”], 15 April 2012.

<sup>22</sup> The markets also reacted positively to reduced tensions over Iran’s nuclear program. The price of oil dropped, and the Iranian currency gained value against the dollar. Chris Khan, “Oil prices fall on easing tensions over Iran”, Associated Press, 16 April 2012; “کاهش قیمت ارز و سکه در ایران دو روز پس از مذاکرات” [“Price of US dollar and gold coins reduced after”]

structive and useful” and said the environment was conducive to positive results.<sup>23</sup> Iranian officials, ranging from key political actors to Friday prayer leaders, issued constructive pronouncements.<sup>24</sup> The media’s upbeat account of what had transpired in Istanbul also was virtually unprecedented for an occasion of this sort.<sup>25</sup> To many, this orchestrated messaging appeared as a coordinated effort designed to condition public opinion for a compromise. Iran depicted the first round of talks as a victory, pointing to important achievements. Of these, the most significant in Iran’s view was recognition in the final statement that the basis of the negotiations would be the NPT, which Tehran interpreted as recognition of its right to enrich on

its soil.<sup>26</sup> A former Iranian negotiator, Hossein Mousavian, described a longer list of accomplishments:

The April 2012 meeting in Istanbul was different from previous negotiations in five distinct ways. First, the P5+1 agreed to resume negotiations without any precondition, such as suspension of enrichment. Second, they determined the NPT, not the UN Security Council resolutions which require Iran to suspend enrichment and Iran considers illegal, as the framework for negotiations. Third, instead of demanding unilateral concessions, the P5+1 agreed that concession should be reciprocal. Fourth, the acknowledgment that mistrust is mutual. Last but not least, the commitment to negotiate a step-by-step plan with a clear endpoint. This was very different from the dual-track approach and was precisely what Iran wanted all along.<sup>27</sup>

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constructive nuclear negotiations”], BBC Persian (in Persian), 16 April 2012.

<sup>23</sup> Jalili said, “we witnessed progress. There were differences of opinion, but the points we agreed on were important”. Ashton commented: “We expect that subsequent meetings will lead to concrete steps towards a comprehensive negotiated solution which restores international confidence in the exclusively peaceful nature of the Iranian nuclear program”. See Fredrik Dahl and Justyna Pawlak, “Iran, big powers agree – to keep talking”, Reuters, 14 April 2012.

<sup>24</sup> Ali Akbar Velayati, the Supreme Leader’s foreign policy adviser and a former foreign minister, said, “the West took a positive step in the Istanbul meeting and realised that using threats against Iran is futile”. Interview with Velayati, Khabaronline (in Persian), 20 April 2012. Ayatollah Ahmad Alam-Hoda was among the Friday Prayer leaders across Iran who characterised the Istanbul meeting as a victory for Iran. “مذاکرات 5+1 در “استانبول برای کشورمان یک پیروزی بود [“Negotiations with the P5+1 was a victory for our country”], Mehr News Agency (in Persian), 21 April 2012.

<sup>25</sup> The majority of newspapers described the meeting as an achievement for Iranian diplomacy that laid the foundation for future progress. See “دورنمای مثبت مذاکرات ایران و 5+1” [“Positive prospects of negotiations between Iran and the P5+1”], Press TV, 15 April 2012; “ادامه مذاکرات با رویکرد گام به گام ایستگاه بعدی، “بغداد” [“Negotiations will continue on a step-by-basis, next stop Baghdad”], Kayhan News Paper (in Persian), 15 April 2012. “تفاوت «باید» و «لطفاً» در مذاکرات 5+1 با ایران” [“The difference between ‘must’ and ‘please’ in negotiating with Iran”], Iranian Students’ News Agency (in Persian), 24 April 2012. The only exception was the Ahmadinejad government’s newspaper, which accused its political opponents (mainly forces close to former Presidents Rafsanjani and Khatami) of conducting the negotiations from behind the scenes. See “مرز بندی شفاف احمدی “نژاد با هاشمی [“Ahmadinejad’s clear demarcation from Hashemi”], *Iran Emrooz* (in Persian), 24 April 2012. “The allegations suggested that efforts would be made by those close to the president to publicly criticise the negotiations in an effort to sabotage them after they had largely been sidelined”, Crisis Group interview, Eskandar Sadeghi-Boroujerdi, Oxford Research Group, London, 28 April 2012.

Although more sober, the mood in Washington and Brussels also was positive. Western negotiators found their Iranian counterparts more flexible and pragmatic – an attitude, in their view, almost entirely driven by the toll taken by sanctions – which they believed might augur well for subsequent talks.<sup>28</sup> They took particular satisfaction from the fact that Saeed Jalili, Iran’s chief nuclear negotiator, had not engaged in posturing or reiterated past preconditions; likewise, they welcomed that he focused on the nuclear file as opposed to what the West considers auxiliary issues, such as cooperation aimed at stabilising Afghanistan or fighting drug trafficking and maritime piracy.<sup>29</sup>

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<sup>26</sup> In the words of Ambassador Soltanieh: “Recognition of our nuclear rights was a positive move, which shows that they finally realised that we will never give up our rights”. Crisis Group interview, Soltanieh, Vienna, 16 May 2012. “اعتراف “اشتون به حقوق هسته ای ایران [“Ashton’s admission to Iran’s nuclear rights”], Mehr News (in Persian), 15 April 2012. U.S. and European officials strongly contest this interpretation, pointing out that the NPT does not recognise any nation’s right to enrich but rather the right to civilian nuclear energy. They also say that Iran has forfeited whatever right it possesses under the NPT as a result of past violations, and it first needs to restore confidence before it can enjoy the same rights as other NPT signatories. Crisis Group interviews, U.S. and European officials, May 2012.

<sup>27</sup> Crisis Group telephone interview, Princeton, 18 April 2012. Laura Rozen, “Iranian hard-liners send positive signals on talks”, *AI Monitor*, 26 April 2012.

<sup>28</sup> Crisis Group interview, senior U.S. official, Washington DC, April 2012.

<sup>29</sup> Crisis Group interview, U.S. official, 17 April 2012. Ben Rhodes, U.S. deputy national security adviser, said: “We believe that [the meeting in Istanbul] was a positive step forward today; that, again, the right issues were on the agenda; that there was a discussion of the Iranian nuclear program; that there was a demonstration of a seriousness of purpose by the Iranians and the international community. And now what we’re doing is building out the agenda going forward and a set of meetings that will

Standing out as the one country to express displeasure with the meeting was Israel, whose prime minister opined that Iran was given a “freebie”, able to continue enriching uranium during the five-week interval between the talks in Istanbul and Baghdad without incurring any penalty or pressure to stop.<sup>30</sup>

In another encouraging development, Iran resumed negotiations with the IAEA on 14-15 May aimed at resolving outstanding issues and addressing agency questions regarding possible military dimensions of the Islamic Republic’s nuclear program.<sup>31</sup> This was followed by a visit to Tehran by the director of the nuclear watchdog body, Yukiya Amano, another indication that progress was being made. Whereas the last two rounds of talks in early 2012 had ended in deadlock due to Tehran’s objection to

an inspection of the suspected military site at Parchin,<sup>32</sup> this time Amano was given assurances that the obstacle would be overcome. The announcement that Iran and the IAEA were close to signing an agreement seemed deliberately timed to coincide with the impending start of the Baghdad meeting.

Yet this atmosphere and the spirit of good-will proved ephemeral, and a series of statements swiftly undermined trust, casting doubt upon the agreed step-by-step framework and reciprocal approach. In Iran, officials reprised an older theme by insisting on the need to remove sanctions. Foreign Minister Ali Akbar Salehi asserted: “Iran is ready to resolve all nuclear issues in the next round of talks with world powers if the West starts lifting sanctions”.<sup>33</sup> The same demand was echoed by other influential figures.<sup>34</sup>

The U.S. and Europe reacted negatively to the Iranian request,<sup>35</sup> even as they read it as validation of their view that

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include both technical meetings and then an additional meeting of P5+1 and the Iranians later in May. So this is obviously not the type of issue that you resolve in one meeting, but we believe that we have set a course whereby we can give diplomacy a very serious and firm commitment as we seek to resolve this longstanding issue”, quoted in “Statements after First Diplomatic Meeting with Iran”, U.S. Institute of Peace (USIP) Iran Primer website, 15 April 2012.

<sup>30</sup> Herb Keinson, “Netanyahu: Istanbul talks gave Iran a ‘freebie’”, *Jerusalem Post*, 15 April 2012. President Obama immediately responded to Israeli criticism by saying that the U.S. didn’t “give away anything” to Iran in Istanbul, and the P5+1 have been clear with Iran about the goals of the talks. Associated Press, 15 April 2012.

<sup>31</sup> In November 2011, the IAEA published a thirteen-page document that described the agency’s concerns about Iran’s nuclear program. To address them, it sought access to sites, scientists and documents it suspected could be related to nuclear weapons work. Although Iran is not obligated under the NPT to allow the IAEA to visit non-nuclear facilities, the agency based its request on UN Security Council resolutions requiring Iran to fully cooperate with it. See Jay Solomon and David Crawford, “An interview with IAEA’s Yukiya Amano”, *The Wall Street Journal*, 9 June 2012. In response, Tehran has questioned the authenticity of documents pointing to the conduct of nuclear-related military work and demanded assurances from the IAEA that it would permanently end investigations into various nuclear activities if Tehran were cooperative. See, eg, Mark Hibbs, “Iran and the IAEA Talk Again”, Carnegie Endowment for International Peace, 12 May 2012. In contrast to the P5+1, whose focus is on halting Iran’s 20 per cent enrichment and shutting down the underground enrichment facility at Fordow, the IAEA’s main concern is the possible military dimension of Iran’s nuclear program. A senior IAEA official said, “Iran’s enrichment activities are under the IAEA’s safeguards, and no diversion has been detected. Moreover, the IAEA inspectors visit Fordow on a weekly basis. There is an arc of heterogeneous problems between Iran and the agency, but they can be rapidly resolved if Iran cooperates fully in a systematic fashion”. Crisis Group interview, Vienna, 17 May 2012.

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<sup>32</sup> Concerns over activities at the Parchin site grew significantly between February and May 2012, as new satellite images and intelligence information suggested clean-up work had occurred to remove evidence related to high explosive tests that could be used in nuclear explosions. Iran dismissed as a “joke” accusations that it had “sanitised” the site. Fredrik Dahl, “IAEA worried about activities at Iran site”, Reuters, 29 February 2012; George Jahn, “Drawing focuses on Iran’s nuke work”, Associated Press, 17 May 2012; Fredrik Dahl, “Image shows buildings gone at Iran site: diplomats”, Reuters, 30 May 2012.

<sup>33</sup> Marcus George, “Iran says ready to resolve nuclear issues”, Reuters, 16 April 2012.

<sup>34</sup> According to Ayatollah Ahmad Jannati, chairman of the powerful Guardian Council: “The West must lift sanctions against the Islamic Republic of Iran so that the Iranian nation believes they (Western powers) do not seek to continue their enmity. If they [Western powers] insist on sanctions and then say they will negotiate with Iran, it is clear that such negotiations will be called off”. Quoted by the Islamic Republic News Agency, 20 April 2012. Gholam-Ali Haddad Adel, a close adviser to the Supreme Leader and former speaker of the parliament, said, “at the least, our expectation is the lifting of sanctions”. Quoted in the Iranian Student News Agency, 2 May 2012. See also Agence France-Presse, 19 May 2012.

<sup>35</sup> In reaction to Salehi’s statement, U.S. Secretary of State Hillary Clinton said, “I believe in action for action but I think in this case the burden of action falls on the Iranians to demonstrate their seriousness and we are going to keep the sanctions in place and the pressure on Iran as they consider . . . what they’ll bring to the table in Baghdad and we’ll respond accordingly”. Reuters, 16 April 2012. Villy Søvndal, foreign minister of Denmark, which holds the European Union presidency, said, “I think it would be very dangerous to create a situation where we say to Iranians we might lift part of the sanctions. They (Iranians) are world champions in making very long negotiations lead nowhere”. Reuters, 16 April 2012. According to a senior U.S. official: “We understand that the Iranians need to show some gains in return for their concessions, and we are prepared to give



Tehran was growing increasingly anxious about the impact of sanctions.<sup>36</sup> In the meantime, persuaded that economic punishment was the key to extracting Iranian concessions, and under domestic pressure to be tough, the U.S. administration pressed importers of Iranian oil to further reduce purchases;<sup>37</sup> imposed sanctions on providers of technologies employed to suppress dissent in Iran and Syria; and targeted those who violated sanctions against the two countries.<sup>38</sup> The U.S. Senate approved more sanctions on the eve of the Baghdad meeting.<sup>39</sup>

As the U.S. and Europeans saw it, the onus was on Iran to take the first steps to overcome persistent doubts. A U.S. official said, “the burden of proof is on the Iranians. They are the ones who are running an illicit nuclear program. We will engage in a step-by-step process, but our actions are not necessarily going to be equivalent to theirs”.<sup>40</sup> As for suspending or postponing the July oil embargo, a European official was equally clear that the bar was high: “What the Iranians don’t appear to realise is that we are not imposing additional sanctions on them as of 1 July. These sanctions were imposed last January, and we will need to see a lot on the other side to justify a delay”.<sup>41</sup> In response, Iranian negotiator Saeed Jalili cautioned that the “time for the strategy of force has passed” and expressed hope that the West would “abandon its futile strategies” and instead focus on “cooperation on regional, international and nuclear issues”.<sup>42</sup>

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them incentives. But these will not include lifting sanctions”. Crisis Group interview, Washington DC, April 2012.

<sup>36</sup> Crisis Group interview, U.S. official, Washington DC, June 2012.

<sup>37</sup> “Obama praises Japan for limiting imports of Iranian oil”, *Platts*, 1 May 2012. “U.S. wants to wean India off Iran’s oil”, *United Press International*, 7 May 2012. According to a senior U.S. official: “If there is no agreement, the pressure track of our two-track policy will continue and even go beyond 1 July 2012. There are plenty of other possibilities to ratchet up the pressure”. Crisis Group interview, Washington DC, April 2012.

<sup>38</sup> Peter Baker, “U.S. sets new sanctions against technology for Syria and Iran”, *The New York Times*, 23 April 2012. Samuel Rubinfeld, “White House targets Iran, Syria sanctions evaders”, *The Wall Street Journal*, 1 May 2012.

<sup>39</sup> The package would extend sanctions to cover any dealings with the National Iranian Oil Co and National Iranian Tanker Co, if they are deemed to be agents or affiliates of the Revolutionary Guards. See Reuters, 22 May 2012.

<sup>40</sup> Crisis Group interview, Washington DC, April 2012.

<sup>41</sup> Crisis Group interview, EU official, Brussels, May 2012.

<sup>42</sup> Jalili continued: “[The West] should be more careful in their statements and not miscalculate because what is going to end is not the time for negotiation but the pressure on [the] Iranian people. Undoubtedly, more pressure on the Iranian nation would lead to more resistance”. Quoted in Tohid Atashbar, “Resistance economy, Iran’s agenda to curb sanctions”, *Tehran Times*, 17 May 2012. جلیلی: مذاکرات بغداد نقطه آغازی بر پایان راهبردهای بی نتیجه.

## C. SECOND MEETING IN BAGHDAD

Hopes of progress rapidly dimmed as negotiators assembled in Baghdad, suffused in a mist of sand. The gap between them came into plain view at the first plenary. The Iranians reverted to a more familiar posture. Jalili purportedly refused to focus on the nuclear file alone and also insisted on acknowledgment of his nation’s enhanced cooperation with the IAEA and explicit recognition of its rights to peaceful nuclear energy under the NPT. He is said to have presented a “comprehensive” five-point package covering nuclear and non-nuclear-related matters. Iran’s offer reportedly included, inter alia, increasing cooperation with the IAEA, capping enrichment to 5 per cent, participation in an international consortium for nuclear activities and cooperation on regional security issues such as the situations in Syria and Bahrain.<sup>43</sup>

Explanations for the hardening of their posture vary. According to some, Iran’s leadership realised that by raising the sanctions issue in Istanbul, it had only validated the West’s notion that pressure works;<sup>44</sup> a tougher approach was needed to demonstrate Tehran was not acting out of weakness. Others speculated that, by appearing overly eager for a deal in Istanbul, the P5+1 had helped boost Tehran’s confidence; as a French official put it,

Iranians sensed that we really wanted an agreement, and so they concluded they could afford to act tougher. Consequently they reverted to their old style and rhetoric, putting their maximalist demands on the table and going so far as to ask for discussions of human rights in Bahrain and – in all seriousness! – of human rights violations by third parties in Syria. Meanwhile, they

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است 5+1” [“Jalili: The negotiations in Baghdad are the beginning of the end of P5+1 futile strategies”], *Fars News Agency* (in Persian), 22 May 2012.

<sup>43</sup> Crisis Group interviews, Washington DC, June 2012. John Tirman and Abbas Maleki, “Iran nuclear talks: What to do in Moscow”, *Huffington Post*, 11 June 2012. A member of the P5+1 delegation said, “we are interested in talking about regional issues with Iran but not at the expense of the nuclear question. Non-nuclear issues should be a footnote to the nuclear discussions, not the other way around”. Crisis Group telephone interview, Baghdad, 23 May 2012.

<sup>44</sup> This was the view, for example, of Israeli officials who argued that the Iranians realised putting the emphasis on sanctions in Istanbul had revealed their vulnerability. Crisis Group interview, defence official, Jerusalem, 7 June 2012. Some U.S. officials likewise opined that the Iranians reached the conclusion they had erred in raising the sanctions issue in the interval between the talks and therefore did not bring it up in Baghdad. Crisis Group interview, senior U.S. official, Washington DC, June 2012.



were prepared to offer minimal concessions on 20 per cent enrichment.<sup>45</sup>

The P5+1 reportedly put forward a three-pronged request: that Iran halt all 20 per cent enrichment; remove its 20 per cent stockpile in a revived swap deal; and shut down Fordow. In return it is said to have committed not to impose new sanctions as well as offered to ease Iran's access to aircraft spare parts, provide fuel for the Tehran Research Reactor and extend cooperation on nuclear safety.<sup>46</sup> The offer was deliberately ungenerous – some would say unrealistic – in all likelihood an opening bid in what the P5+1 saw as a lengthened process of negotiations.

Whether one or both sides were engaging in negotiating tactics, the net result was predictably negative. The only issue on which they concurred was that they would meet again in Moscow, on 18-19 June<sup>47</sup> – and this, only because negotiators were stranded in Baghdad for an extra day and so had time to hash out this agreement.<sup>48</sup> Seeking to put a relatively positive face on the outcome, Jalili described the talks as “intensive and long ... detailed but left unfinished”,<sup>49</sup> and Ashton reciprocated.<sup>50</sup> But Iran's state-run

news agency, IRNA, described the counter-proposal as “outdated, not comprehensive, and unbalanced”,<sup>51</sup> while Western officials expressed strong doubt that an agreement could be reached. The view – never far from the surface – that Iran was unwilling to make serious concessions and was merely seeking to gain time, delay sanctions and sow divisions among the P5+1 gained renewed prominence.<sup>52</sup> A U.S. official expressed deep pessimism about the future:

Moscow probably won't end in failure, because no one wants to alienate the Russians, so we likely will have one more meeting. But after that, it is probable we will bring this phase of the process to an end, wait for the July sanctions to sink in and then hope Iran can show greater flexibility.<sup>53</sup>

Subsequent statements only further highlighted the mismatch in expectations. U.S. Secretary of State Hillary Clinton announced that sanctions would remain in place, while an Iranian official asserted that sanctions would diminish prospects of reaching a negotiated solution.<sup>54</sup> Tellingly, relations between Iran and the IAEA simultaneously deteriorated, as Tehran accused the agency of pursuing an intelligence-driven agenda<sup>55</sup> and backtracked on its commitment to sign an agreement with it to provide better access to suspected facilities and address outstanding questions. The failure of talks between Iran and the agency on 6 June

<sup>45</sup> Crisis Group interview, May 2012.

<sup>46</sup> Crisis Group interviews, Washington DC, Brussels, May-June 2012. See also Julian Borger, “Six-nation group tries to defuse tensions over Iran nuclear programme”, *The Guardian*, 23 May 2012; Jay Solomon, “Iran, U.S. agree only to resume their talks next month”, *The Wall Street Journal*, 24 May 2012.

<sup>47</sup> Iran again suggested Baghdad as the venue, but the P5+1 were reluctant due to logistical difficulties. The Iranians then proposed the capitals of Kazakhstan, China or Russia. Crisis Group interview, senior U.S. official, Washington DC, June 2012.

<sup>48</sup> Crisis Group interview, U.S. official, Washington DC, May 2012.

<sup>49</sup> Andrew Quinn and Justyna Pawlak, “Iran, big powers agree to hold more nuclear talks in June”, Reuters, 24 May 2012.

<sup>50</sup> She said, “the E3+3 [another way to describe the P5+1] remain firm, clear and united in seeking a swift diplomatic resolution of the international community's concerns on the exclusively peaceful nature of Iran's nuclear program, based on the NPT, and the full implementation of UN Security Council and IAEA Board of Governors Resolutions. ... In line with our agreement in Istanbul, the E3+3 laid out clear proposals to address the Iranian nuclear issue and, in particular, all aspects of 20 per cent enrichment. We also put ideas on the table on reciprocal steps we would be prepared to take. Iran declared its readiness to address the issue of 20 per cent enrichment and came with its own five-point plan, including their assertion that we recognise their right to enrichment ... it is clear that we both want to make progress, and that there is some common ground. However, significant differences remain. Nonetheless, we do agree on the need for further discussion to expand that common ground”. “Statement by Catherine Ashton, High Representative of the European Union for Foreign Affairs and Security Policy and Vice-President of the Commission, following the talks of E3+3”, 24 May 2012, at [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/EN/foraff/130417.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/130417.pdf).

<sup>51</sup> An Iranian diplomat told a U.S. newspaper: “This is what we were afraid of ... No one is going to accept these things this way. The 20 per cent and shutting down Fordow, in return for nothing? Nothing?” See Scott Peterson, “Hopes fade for progress at Iran nuclear talks in Baghdad”, *The Christian Science Monitor*, 23 May 2012. Hossein Mousavian, former Iranian nuclear negotiator, called the Western demand for halting 20 per cent enrichment and intrusive IAEA inspections in return for airplane spare parts “asking for diamonds in return for peanuts”. Interview with CNN's Christian Amanpour, 23 May 2012.

<sup>52</sup> Crisis Group interview, senior EU official, Brussels, May 2012.

<sup>53</sup> Crisis Group interview, Washington DC, May 2012.

<sup>54</sup> Clinton said: “As we lay the groundwork for these talks, we will keep up the pressure as part of our dual-track approach. All of our sanctions will remain in place and continue to move forward during this period”, Reuters, 24 May 2012. Iran's foreign ministry spokesman, Ramin Mehmanparast, retorted: “This approach of pressure concurrent with negotiations will never work. These countries should not enter negotiations with such illusions and misinterpretations. They have their own wrong conceptions and this will stop them from coming to a speedy and constructive agreement. ... Our rights for possessing the nuclear fuel cycle for peaceful purposes ... need to be recognised and we will never do away with these rights”. Reuters, 29 May 2012.

<sup>55</sup> Jonathan Trione, “Iran casts nuclear inspectors as spies in envoy's defiant speech”, Bloomberg, 6 June 2012.

cast yet another shadow on the Moscow talks.<sup>56</sup> Placing yet more uncertainty over the Moscow meeting, Iran and the P5+1 also squabbled over the issue of preparatory talks, which Iranians insisted were necessary and the P5+1 considered superfluous.<sup>57</sup>

### III. NEXT STEPS

#### A. A HIGH-STAKES GAME OF NUCLEAR POKER

At a minimum, the two initial meetings reflected a shared desire to avoid a crisis and buy some time while exploring whether a deal was feasible. As reflected in the step-by-step approach, the two sides seemingly agreed that the only possible deal at this stage was a modest one – addressing concerns arising from Iran’s enrichment at 20 per cent (concerns that, it should be noted, are of relatively recent vintage and post-date the onset of the nuclear crisis since Tehran only began enriching at that level of purity in 2010). Yet it is far from clear whether this negotiating process can be sustained given substantive gaps, if so for how long and if not, what will come in its stead. From the U.S. perspective in particular, a breakdown would present ever more starkly the question of a military strike, whether Israeli, American or both.

As currently defined, the process suffers from two internal contradictions. First, what arguably made the resumption of talks possible also is what constitutes a principal obstacle to their success. Both sides spent the past several months seeking to bolster their assets in anticipation of

negotiations. The U.S. and its European allies expended considerable political capital assembling a remarkable coalition of countries willing to impose sanctions that, not long ago, would have been considered unthinkable. As seen, they remain convinced that this was the principal reason Iran came to the table. For its part, Iran devoted its energy to enriching uranium at a higher level and completing the Fordow installation – all of which came at heavy economic cost in light of the resulting sanctions. Arguably, the two sides were willing to resume talks solely because they felt they had sufficiently strengthened their respective hands.

Yet, having exerted such efforts and paid so heavy a price, neither side is prepared to easily part with its newfound assets. For Iran, shutting down Fordow would mean doing away with what arguably is the chief obstacle to a unilateral Israeli strike.<sup>58</sup> Likewise, the 100-kilogram stockpile of 20 per cent enriched uranium has come at astronomical cost, in light of the ensuing sanctions regime. Tehran can neither close down Fordow nor part with its 20 per cent enriched uranium without receiving a major concession in return; swapping the latter for fuel rods is unlikely to meet that bar.<sup>59</sup> In like manner, the U.S. and EU are very reluctant to begin relaxing the sanctions regime, as both know how difficult it was to achieve in the first place and how quickly it might unravel at the first sign of softening.<sup>60</sup>

This dynamic largely explains the parties’ disparate views. The minimum Iran’s leadership seeks is recognition of its “inalienable rights” to peaceful nuclear energy which, as noted, it equates with the right to enrich uranium on its soil. By the same token, it considers that sanctions must be at least partially removed for its own concessions to be justified. Anything less would be seen as a sign of weakness, might encourage further Western pressure and could be difficult to explain to its domestic constituency. Even then, it is highly unlikely to agree to shut down Fordow.

For the U.S. and EU, the steps demanded by Tehran represent major compromises. To begin, and as seen, Western powers dispute the assertion that there is a right to domestic enrichment,<sup>61</sup> even assuming they would be prepared to

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<sup>56</sup> Fredrik Dahl, “U.N. nuclear watchdog, Iran fail to reach deal on probe”, Reuters, 8 June 2012. As Tehran sees it, final resolution of its issues with the IAEA depends on the results of higher-level diplomacy with the P5+1. Iran’s ambassador to the IAEA said, “Iran is willing to resolve the outstanding issues with the IAEA under a structured approach. This constitutes a significant effort for Iran, as resolution of these matters requires going beyond the NPT and even the Additional Protocol. We expect the P5+1 to reciprocate our endeavours. At the end of the day, it is the West that has brought up these allegations against Iran, so they should also pay the price for resolving these issues”. Crisis Group interview, Vienna, 16 May 2012.

<sup>57</sup> See *The New York Times*, 8 June 2012. Ali Baqeri, Iran’s deputy negotiator, together with his P5+1 counterpart, Helga Schmid, exchanged several letters regarding preparatory meetings to draft an agenda for the Moscow talks. The Iranians sought to hold an experts meeting at the deputies level, but the P5+1 deemed such a gathering unproductive given the political nature of the problems. See *The New York Times*, 8 June 2012; Reuters, 10 June 2012. Ultimately, during a telephone conversation between Ashton and Jalili on 11 June, both sides agreed to address their respective concerns in Moscow. Reuters, 11 June 2012.

<sup>58</sup> Amos Yadlin, “Israel’s last chance to strike Iran”, *The New York Times*, 29 February 2012.

<sup>59</sup> Crisis Group telephone interview, Hossein Mousavian, Princeton, 18 April 2012.

<sup>60</sup> Crisis Group interviews, U.S., EU officials, May 2012.

<sup>61</sup> As already noted, Western governments consider that not only is there no inherent right to enrich, but previous breaches of obligations under the NPT deprive Iran from enjoying the same rights as other signatories. The P5+1 therefore considers recognition of Iran’s rights under the NPT to be contingent on Tehran receiving a clean slate from the IAEA. That said, the U.S. and others have signalled that once that condition has been met they would accept a limited and rigorously monitored enrich-

grant Iran this as a privilege, many are persuaded it should only come at the end of the negotiating process, not at the outset.<sup>62</sup> As for sanctions relief, some Western officials have suggested that a roll-back is impossible at this stage but that they might conceivably postpone the forthcoming U.S. and EU penalties on condition that Iran agree to the three steps outlined above aimed at stopping mid-level uranium refinement.<sup>63</sup> But this, too, is less than certain.<sup>64</sup>

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ment program in Iran. Crisis Group interviews, U.S., EU officials, May 2012. See also Paul Richter, "U.S. signals major shift on Iran nuclear program", *Los Angeles Times*, 17 April 2012. In March 2011, U.S. Secretary of State Clinton told the House Foreign Affairs Committee: "It has been our position that under very strict conditions Iran would, sometime in the future, having responded to the international community's concerns and irreversibly shut down its nuclear weapons program, have such a right [to enrich] under IAEA inspections". See Peter Crail, "U.S. position on Iran enrichment: more public recognition than policy shift", *Arms Control Now*, 30 April 2012.

<sup>62</sup> Crisis Group has long argued that Iran should be presented with a realistic endgame proposal, including the ability to enrich on its soil. See Crisis Group Middle East Report N°18, *Dealing with Iran's Nuclear Program*, 27 October 2003. Western officials appear divided on this score. A senior U.S. official took the position that the P5+1 should put such a proposal on the table, saying: "Iran basically knows that, at the end of the day, we will accept enrichment on their soil. So what do we gain by holding this back? We will pay twice: first, by hindering progress in negotiations now, and second by caving in later. But this is not yet the majority view in the administration". Crisis Group interview, Washington DC, May 2012. France traditionally has taken the hardest line, arguing the West should not alter its position now lest it embolden Tehran. Crisis Group interviews, French officials, 2010-2011. The possible effect of François Hollande's election as president on this position is as yet unclear. Iranian analysts believe that Paris might now adopt a more accommodating position toward Iran than it did under President Sarkozy. Some also argue that, insofar as economic recovery is Hollande's top priority, he might be more reluctant to go through with the oil embargo. See "پیروزی اولاند چگونه بر 5+1 تاثیر خواهد گذاشت؟" ["What is the effect of Hollande's victory on P5+1 negotiations with Iran?"], Nuclear Iran website ([www.irannuc.ir](http://www.irannuc.ir)), 7 May 2012. That France will not be as tough as it was under Sarkozy is probable, but Iranian expectations appear inflated. A French diplomat argued: "Hollande and Obama are very much in sync on Iran policy. There will no longer be a go-it-alone French policy, and the fear the U.S. had in the past – that Sarkozy might walk away from the P5+1, if he disagreed, for example on recognising Iran's right to 3.5 per cent enrichment – no longer exists. This does not mean France will cease playing 'bad cop'. Paris is still more reticent than Washington on acquiescing to low-level enrichment". Crisis Group interview, May 2012.

<sup>63</sup> For Israel, by far the most critical of the three P5+1 requests concerns Fordow. Indeed, officials in Jerusalem worry that the P5+1 might agree to a deal entailing the first two prongs (production and stockpiling of 20 per cent enriched uranium). In their view, this would simultaneously leave intact the most

Besides, how impactful such a postponement would be is debatable. Although it would send the encouraging message to Iran that sanctions can be reversed,<sup>65</sup> to a large extent the oil embargo already is a fait accompli, and it is hard to imagine European countries resuming their purchase of Iranian oil after having weaned themselves off it. Extraterritorial U.S. sanctions on third-party dealings with the Central Bank of Iran are equivalent in effect to an oil embargo insofar as they make payments for Iranian oil purchases extremely difficult – and, in the case of some countries, might leave barter deals as the only option. From Tehran's perspective, a significant step would be delaying the EU ban on protection and indemnity (P&I) insurance for shipping Iranian oil; as seen, its enactment could have a devastating impact on Iran's global oil trade.

The second contradiction at the heart of the process relates to the time factor. The opening salvo in Baghdad was marked by unrealistic posturing from both sides, giving some reason to expect more serious bargaining in the future. A senior U.S. official said, "had I been an Iranian, I too would have rejected the deal in Baghdad. Our thinking was to begin with such an offer. The question is how far we will be prepared to go in Moscow".<sup>66</sup> Although expressing overall pessimism, Western officials hope that, with the 1 July deadline for EU sanctions looming, Iran might prove more flexible; if not, they argue that they should give the sanctions time to "sink in" before again testing whether Tehran has become more amenable to com-

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dangerous aspect of Iran's enrichment program while delegitimising a putative preventive strike. An Israeli defence official said, "for two main reasons, there is no point in merely stopping 20 per cent enrichment and taking out the stockpile: First, the Iranian can still take the 3.5 per cent enriched materials and again enrich them up to 20 per cent. Second, such a deal will provide Iran with time to produce more 3.5 per cent material. This is like giving medicine against a headache to someone who suffers from lung cancer". Crisis Group interview, Jerusalem, 7 June 2012.

<sup>64</sup> An EU official said, "the Iranians should understand that there is no 'snap your fingers and it will be gone' mechanism in Europe to postpone sanctions. Climbing this mountain was very difficult for us. Descending it also will be tough. All 27 European countries will have to take the decision by consensus, and the problem is that there is much less agreement on repealing the sanctions than on imposing them". Crisis Group interview, Brussels, May 2012. Obama has the authority to waive sanctions on the Central Bank of Iran based on national security considerations, but he could face intense criticism from the Congress and notably from Republicans in the run-up to a very tight election. He would need to be able to point to very significant Iranian steps – and be supported by Israel in this regard. Crisis Group interview, U.S. official, Washington DC, May 2012.

<sup>65</sup> Crisis Group interview, Iran analyst, Washington DC, June 2012.

<sup>66</sup> Crisis Group interview, Washington DC, June 2012.

promise.<sup>67</sup> In mirror image, many Iranian officials believe that Obama is waiting for his re-election to offer Iran genuine concessions.<sup>68</sup>

The problem is that time is precisely the asset Israel claims it lacks – not because Iran soon will be in a position to build a nuclear weapon, but because Israel believes it soon will be unable to stop it.<sup>69</sup> Should negotiations break down this summer,<sup>70</sup> or should it become evident they are pure window-dressing designed to fill time until after the November elections, it is at least conceivable that Israel will decide to launch a strike, or intensify pressure on the U.S. to do so. In the words of a former U.S. official:

The Obama administration is on the horns of a dilemma. It has embraced a step-by-step process that requires progress in order to be sustained. If there is no progress, the administration will be left with nothing to show and won't be able to continue talks for the sake of talks. What then will it say to Netanyahu?<sup>71</sup>

What is more, the history of negotiations with Iran teaches that deadlock typically is followed by long periods of diplomatic paralysis and escalation. When, in 2005, European countries failed to reciprocate Tehran's agreement to both suspend uranium enrichment and open the door to more rigorous inspection of its nuclear facilities, events took a turn for the worse. As centrifuges resumed spinning, the Security Council approved sanctions. The same dynamic occurred in 2009, when Iran reneged on an agreement to swap enriched uranium for fuel rods; the subsequent

period witnessed an escalatory spiral, as the West imposed new sanctions, and Iran enriched uranium to higher levels. The failure of the 2011 talks in Istanbul gave way to fifteen months of bellicose rhetoric, sabre-rattling, sanctions and assassinations before negotiations finally resumed.<sup>72</sup>

Already, there are signs of mounting tensions in the aftermath of Baghdad. Iranian officials took a harder line and retracted statements about curbing 20 per cent enrichment,<sup>73</sup> while U.S. and Israeli officials spoke of ratcheting up pressure.<sup>74</sup> With sanctions on Iran's oil and central bank looming, the atmosphere in Tehran has begun to sour noticeably. Many officials, previously hopeful of achieving a breakthrough, now are openly pessimistic.<sup>75</sup> In an editorial, the *Kayhan* newspaper, known to reflect the Supreme Leader's views, suggested that in the absence of any real incentives, Iran should withdraw from negotiations to deprive the West of the advantages of diplomacy, notably lower oil prices.<sup>76</sup>

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<sup>67</sup> Crisis Group interview, U.S. official, Washington DC, June 2012. Some Iranians suspect this is the U.S. ploy: "Negotiations with Iran provide the United States with an opportunity to buy time until the full sting of sanctions is felt in Iran, gain more internal preparedness, and strengthen its grip on the situation in the Middle East. ... The United States believes international sanctions will start to show their impact on Iran in the coming year and Iran will give up under their pressure. Otherwise, they argue, domestic U.S. conditions and regional circumstances will further improve in order to provide an opportunity for the United States to act under more favourable conditions". Ali Abdullah-Khani, "What happens after Baghdad talks: Scenarios and solutions", Iranreview.org, 3 June 2012.

<sup>68</sup> Crisis Group interview, former Iranian official, Washington DC, June 2012.

<sup>69</sup> Crisis Group interview, defence official, Jerusalem, 7 June 2012. See also see Crisis Group Report, *In Heavy Waters*, op. cit., pp. 11-12. Israel's argument about Iran entering a "zone of immunity" is rejected by U.S. officials, who argue that even if Israel would be unable to destroy Fordow, it could severely damage both its operational capacity and the broader nuclear infrastructure. Crisis Group interview, Washington DC, June 2012.

<sup>70</sup> U.S. and Israeli officials have argued that Moscow could well be the next to last negotiating session in this series. Crisis Group interviews, Washington and Jerusalem, June 2012.

<sup>71</sup> Crisis Group interview, Washington DC, June 2012.

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<sup>72</sup> See earlier Crisis Group reporting, in particular, Crisis Group Report, *In Heavy Waters*, op. cit.; Crisis Group Asia Briefing N°100, *The Iran Nuclear Issue: The View from Beijing*, 17 February 2010; Crisis Group Middle East Report N°51, *Iran: Is There a Way Out of the Nuclear Impasse?*, 23 February 2006; and Crisis Group Report, *Dealing with Iran's Nuclear Program*, op. cit.

<sup>73</sup> In April 2012, Feridoun Abbasi, the head of Iran's atomic energy organisation, who survived an assassination attempt in 2010, signalled Iran's preparedness to halt enrichment at the 20 per cent level after meeting its research reactor fuel needs. In May, by contrast, he announced that there was no reason for curbing such production. See "Iran produces 20-percent-enriched uranium based on needs: Official", Press TV, 9 April 2012; Thomas Erdbrink, "After talks falter, Iran says it won't halt uranium work", *The New York Times*, 27 May 2012.

<sup>74</sup> See Reuters, 4 June 2012. The U.S. also roundly rejected the suggestion by UN and Arab League Special Envoy Kofi Annan to include Iran in a contact group on Syria.

<sup>75</sup> The former Iranian president and head of the Expediency Council, Akbar Hashemi Rafsanjani, said, "a false promise was developed after the talks in Istanbul. We wanted to remain hopeful and the Westerners also needed to speak positively due to their economic problems. Both sides tried to portray a positive atmosphere which turned out to be nothing but that in Baghdad", *Jomhuri Islami* newspaper (in Persian), 29 May 2012. President Ahmadinejad also expressed scepticism in an interview with France 24 television: "We are not fools. We are not expecting miracles at the next meeting"; John Irish, "Ahmadinejad sees no breakthrough at Moscow talks", Reuters, 30 May 2012.

<sup>76</sup> In June, the price of oil dropped below \$100 a barrel – a seventeen-month low – making it even more difficult for Iran to balance its budget, which is based on an oil price of \$117 per barrel. Reuters, 11 June 2012. *Kayhan* added: "As far as we can tell, the West pursues the negotiations for the sake of negotiations, not for resolving the problems between the two sides and melting the 'artificial ice' that it has created and spread during the past decade over Iran's nuclear program", Hossein Shari-

One ought not exclude tit-for-tat retaliation by Iran should talks break down and new sanctions come into force. Because it faces real obstacles in procuring material necessary for building centrifuges,<sup>77</sup> the options left to Iran include withdrawing from the NPT, increasing the speed of enrichment at the 20 per cent level or even enriching at higher levels.<sup>78</sup> Although Iran can always find some justification for these activities – such as stockpiling fuel for reactors that it will build in the future or enriching at higher levels in order to produce medical isotopes or for use in nuclear submarines<sup>79</sup> – these all would be highly perilous steps, raising the odds of a military confrontation.

## B. A DIFFERENT APPROACH?

The odds of the talks collapsing are high, as both sides appear entrenched in their respective positions and bargaining strategies. But the consequences of such a breakdown are uncertain and could be severe. Rather than play for time, the parties ought to make an effort to reach an interim deal focused on 20 per cent enrichment and building on the following considerations:

- **On the format of talks:** Although the meetings in Baghdad and Istanbul provided opportunities for the two sides to familiarise themselves with their counterpart's views, no real bargaining took place, as the parties for the most part restated prior positions in plenary sessions.<sup>80</sup> The pace of meetings likewise is problematic: periodic high-level encounters lasting one or two days, followed by relatively long periods of diplomatic vacuum that tend to be filled with posturing and political one-upmanship. An alternative would be for Iran

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atmadari, “چاره کار، توقف مذاکرات” [“The solution is to stop negotiating”], *Kayhan* (in Persian), 26 May 2012.

<sup>77</sup> Iran has been unable to install rotor assemblies in hundreds of otherwise installed centrifuge casings. This mainly is due to its inability to procure the material needed for building centrifuges as a result of tight export controls. Crisis Group interview, non-proliferation expert, Washington DC, June 2012; see also “Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran”, IAEA, Report by Director General, GOV/2012/9, 24 May 2012; David Albright, Andrea Stricker, and Christina Walrond, “ISIS Analysis of IAEA Iran Safeguards Report”, Institute for Science and International Security, 25 May 2012.

<sup>78</sup> Although the recent discovery of particles with enrichment levels of up to 27 per cent is believed by experts to reflect a technical mistake by the Iranians, it suggests that Iran's next escalatory move plausibly might be to enrich to higher levels. See Agence France-Presse, 25 May 2012; Reuters, 25 May 2012.

<sup>79</sup> See, eg, “Iran plans nuclear-powered submarine”, Reuters, 13 June 2012.

<sup>80</sup> Crisis Group interview, U.S. official, Washington DC, June 2012.

and the P5+1 to hold more sustained meetings of political and technical experts to allow for a less charged atmosphere. Although Western officials fear that Iran would exploit such encounters to gain time and drag the process on, they could be held on a virtually continuous basis with a deadline of several months. In parallel, the P5+1 and Iran could establish working groups to discuss other issues of mutual interest – such as regional security, human rights and counter-narcotics efforts.

- **On 20 per cent enrichment:** Given that Iran already has produced nearly the same amount of fissile material that it sought to buy on the international market in 2009 (nearly 120kg), it should be prepared to suspend such activity and convert its entire stockpile of 20 per cent uranium hexafluoride into uranium dioxide pellets, used for nuclear fuel fabrication.<sup>81</sup> This would be a win-win situation, insofar as it would significantly reduce proliferation risks – reconvert uranium dioxide to gaseous uranium hexafluoride for further enrichment to weapons-grade level is lengthy and laborious and requires months of chemical reprocessing – while allowing Iran to maintain its stockpile in the country.<sup>82</sup>

In return, the P5+1 would provide Iran with medical isotopes needed for the treatment of 850,000 cancer patients as well as cutting-edge nuclear fuel manufacturing technology.<sup>83</sup> Although Iran has made advancements in refurbishing its enriched uranium into fuel

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<sup>81</sup> Both sides appear amenable to such an undertaking. Converting Iran's stockpile of fissile material to fuel rods should significantly allay U.S. and EU concerns regarding a possible rapid Iranian nuclear breakout. Crisis Group interview, U.S. official, Washington DC, June 2012. As for Iran, it put forward a similar offer with regards to its 3.5 per cent stockpile in 2005 and, according to the recent IAEA report, already has begun to convert a third of its stockpile of 20 per cent enriched uranium into fuel pellets. See Jonathan Tirone, “Iranian decision to convert 20 per cent-uranium may be good news”, Bloomberg, *BusinessWeek*, 5 June 2012.

<sup>82</sup> Iran's reluctance to swap enriched uranium for fuel rods in part reflects anger at deals that were not respected in the past. Moreover, it takes time to manufacture fuel rods. In the words of Ambassador Soltanieh, “regarding the possibility of another swap deal, it is important to note that it will take a year for the P5+1 states to refurbish our 20 per cent enriched uranium into fuel rods. We remain very distrustful of them. The U.S. refuses to deliver the fuel for which we paid \$2 million before the revolution. The French refuse to deliver 50 tons of our natural uranium in their possession. If past is a prologue, how can we trust them with swapping our enriched uranium?” Crisis Group interview, Vienna, 16 May 2012. For a list of Iran's grievances, see, “The root causes of Iran's confidence deficit vis-à-vis some Western countries on assurances of nuclear fuel supply”, IAEA INFCIR 785, 2 March 2010.

<sup>83</sup> This could be done rapidly; the most likely source would be Canada, one of the world's principal producers of medical isotopes.

rods for use in its research reactor, it cannot verifiably test their safety level, as it lacks reactors specifically designed for this purpose. This deal would both provide Iran with advanced nuclear technology for its stated goal of nuclear fuel production while addressing important proliferation concerns.

- **On the issue of Fordow:** It is difficult at this stage to imagine that Iran will agree to shut down the Fordow enrichment facility.<sup>84</sup> That said, it might be possible for it to freeze the installation of new centrifuges at the facility and agree to use the centre exclusively for research and development purposes. Given its small size, the IAEA could easily ascertain whether any illicit activities were taking place there by installing cameras and increasing the number of visits. Intrusive monitoring also should be required at other facilities.<sup>85</sup> As additional reassurance, Iran should implement the IAEA's modified Code 3.1, which requires informing the agency of any new nuclear facility at the time a decision to build it is taken. As a reciprocal gesture, the P5+1 should agree to take steps on sanctions as detailed below.
- **On the issue of sanctions:** In response to the Iranian steps outlined above, and mindful of political realities – notably in the U.S. – Western nations should be prepared to refrain from any additional sanctions and dilute some of the existing or pending ones.<sup>86</sup> Among

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<sup>84</sup> In late 2011 and probably in anticipation of reaching a deal on 20 per cent uranium enrichment, Iran modified the Design Information Questionnaire (DIQ) of the Fordow facility from exclusive production of 20 per cent uranium to both 20 and 5 per cent enrichment. This change likely was designed to keep the facility open in the event Iran were to stop enrichment at higher levels. See "Implementation of safeguards in Iran: GOV/2011/65", Director General of the IAEA, 8 November 2011.

<sup>85</sup> Until Iran resolves all outstanding issues with the IAEA, there is justification for insisting on an intrusive monitoring system and enhanced safeguards going beyond the NPT's present voluntary Additional Protocol (AP) regime. One suggestion that has been made by an expert is to implement the "Model Temporary Complementary Protocol for the application of IAEA Safeguards in a noncompliant State" (TCP), which addresses certain weaknesses of the Additional Protocol. For instance, the Additional Protocol does not specify deadlines for states to respond to agency requests for information or clarification. Likewise, access rights to undeclared locations easily can be delayed. Furthermore, the protocol does not include a provision pertaining to the agency's right of access to persons it wishes to interview. See Pierre Goldschmidt, "IAEA Safeguards: Dealing preventively with non-compliance", Carnegie Endowment for International Peace, 12 July 2008.

<sup>86</sup> Robert Wright noted: "Look, if we can get a positive outcome from these talks without any sanctions relief, fine. But if the talks fail when a little sanctions relief would have saved them, that's like Bill Gates letting the world fall apart because saving it would have cost \$10,000. We can afford to dole out

possible steps the U.S. and EU could consider in order to demonstrate their commitment to an eventual reversal of sanctions should Iran cooperate are: postpone or, if already in force, termination of the EU oil embargo<sup>87</sup> and/or its ban on insurance for shipments of Iranian oil,<sup>88</sup> and lowering the bar for extending waivers from U.S. sanctions to remaining customers of Iranian oil.<sup>89</sup>

- **On possible Western incentives:** The most realistic and significant incentives do not relate to airplane spare parts or cooperation on nuclear safety, but rather to the energy sector. Western investment in a new nuclear research reactor would be meaningful, given that the Tehran Research Reactor already is 45 years old and has surpassed the lifespan of similar facilities; it would signal a long-term commitment to and recognition of Iran's rights to peaceful nuclear energy.<sup>90</sup> Investment in cutting-edge technologies related to re-

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some sanctions relief for incremental Iranian concessions and still have plenty of painful sanctions in reserve". See "Iran nuclear talks post-mortem: Time to cash in some sanctions", *The Atlantic*, 24 May 2012.

<sup>87</sup> A European diplomat said, "if the Iranians were smart, they would offer something on the 20 per cent, such as suspension and shipping out of existing stockpiles, and then ask for a postponement of the July sanctions for, say, six months. It would not be a great deal for us, as it would legitimise enrichment at 3.5 per cent, but one we would have a hard time to reject. At a minimum, it could provoke a split within the P5+1". Crisis Group interview, May 2012.

<sup>88</sup> While 85 per cent of the oil embargo already is in effect, the ban on insurance coverage by the EU, which dominates the global insurance market, could have devastating impact. It would adversely affect Iran's global oil trade by making shipping a perilous affair, removing a greater quantity of oil from the international market than initially had been targeted by the sanctions themselves and thus jacking up oil prices. Crisis Group telephone interview, energy expert, Tehran, May 2012. However, EU officials signalled in advance of the Moscow talks that cancellation or postponement of the ban on ship insurance was highly unlikely. Reuters, 13 June 2012.

<sup>89</sup> The U.S. already has exempted eighteen Iranian oil customers from its sanctions as a result of their decisions to significantly reduce their purchases from Iran, pursuant to Section 1245(d)(1) of the 2012 National Defense Authorization Act. See "Statement on Significant Reductions of Iranian Crude Oil Purchases", U.S., Department of State, 11 June 2012. The U.S. administration enjoys flexibility in implementing this particular sanction, as the legislation does not define what "significant reduction" in oil purchases means. That said, the U.S. Senate has asked the Treasury Department to define it as an 18 per cent purchase reduction compared to the prior six-month period based on the total price paid (not volume). Ken Katzman, "Iran's sanctions", op. cit.

<sup>90</sup> Such an investment is permissible under UN Security Council resolutions, which exempt technologies related to Light Water Research (LWR) reactors from sanctions.

renewable energies is another possible avenue, which would simultaneously address Iran's energy demands and its claims that the West is denying it access to technology. It also would set a useful precedent for other nuclear energy-aspiring states.

- **On Iran's right to enrichment:** While de jure recognition of Iran's nuclear rights under the NPT is not realistic before the IAEA attests to the peaceful nature of its nuclear program, the P5+1 should clearly convey to Tehran that – once that condition has been met – it will be entitled to enrich on its soil under IAEA supervision.<sup>91</sup> Until that stage is reached, the P5+1 ought to offer de facto recognition of that right, albeit within reasonable restrictions including, inter alia, capping the level of purity (at 5 per cent), limiting the number of facilities to Natanz and Fordow, freezing the number of centrifuges they contain for an agreed period of time and instituting a rigorous monitoring system by UN nuclear inspectors.<sup>92</sup>

All signs – from rhetorical pronouncements; to problems in IAEA-Iranian talks; to political constraints in both Washington and Tehran; to hints that the current negotiations soon will come to an end – are pointing in the wrong direction. As usual, it is a far safer bet to wager on breakdown than on breakthrough. But there is real cost to declaring failure. And that cost inevitably rises with each attempted (and failed) diplomatic foray, as prospects for a deal narrow and as the temptation of a risky, confrontational alternative grows.

### **Washington/Vienna/Brussels, 15 June 2012**

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<sup>91</sup> This appears to be an unmovable Iranian demand. Ayatollah Khamenei reportedly once said, "I would resign if for any reason Iran is deprived of its rights to enrichment". Quoted by Hossein Mousavian in "The Iranian Nuclear Crisis: A Memoir", Carnegie Endowment for International Peace, June 2012.

<sup>92</sup> Israeli officials have conveyed mixed messages about whether they would accept a deal in which Iran would continue to enrich at 3.5 per cent. A former official said, "Israel's formal position must be rejection of any Iranian enrichment. This is because 3.5 per cent enrichment can become 90 per cent without anybody's knowledge. So, Israel must insist on this in principle. Is it practical? No. I imagine the world may give them some ability to enrich. The world can do what it wants, even if Israel says this is its principled position". Crisis Group interview, Jerusalem, June 2012.



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