

## **Settlement of the Iranian nuclear crisis: understanding Tehran's interests and sensitivity**

Our Chairman has asked me to offer answers to three specific questions. I shall do that and then I hope I will have time to offer two general observations.

Why did Iran decide to sign the Additional Protocol (AP) and suspend uranium enrichment in 2003? I sense four factors:

- they were fearful of the possible consequences of a safeguards non-compliance finding and a report to the UN Security Council
- they were susceptible to persuasion by the Director General of the IAEA, who wanted to avoid a report to the Council, since he believed that Security Council involvement would be counter-productive
- they came under pressure to be constructive and to cooperate with the IAEA from fellow members of the Non-aligned Movement (NAM) who had been dismayed by the revelation of Iran's many years of safeguards non-compliance and felt that in effect Iran had "let the side down"
- they hoped that France, Germany and the UK (the E3) would reward Iran for signing the AP and for suspending not only by preventing a report to the Council but also by arguing for closure of the file once Iran's safeguards failures had been corrected.

People often ask whether there have been missed opportunities to settle this crisis. To my mind the biggest missed opportunity was the failure of Iran and the E3 to agree (in Tehran in October 2003) to link suspension to completion of investigations under the AP. I am not aware that it even occurred to them to do so and, had it, each would have had its reasons for resisting the idea. But had this linkage been made, and had the IAEA concluded after four years of AP investigation that there were no grounds to suspect the presence of undeclared nuclear material or activities in Iran, the West would have had to concede that confidence in the non-military nature of Iran's nuclear programme had been restored.

Why did Iran decide to resume uranium conversion in August 2005 and enrichment in January 2006? Two factors:

- by then they had lost all hope that the E3 would support closure of their non-compliance file. They had come to realise that the E3 were adamantly opposed to the resumption of enrichment, and determined to use Iran's non-compliance as a stick to beat Iran into conceding the abandonment of enrichment
- I am not sure but my intuition tells me that they under-estimated the risks that resumption would entail, as a result of three miscalculations. They believed that the correction of their safeguards failures, by then a fait accompli, would deny the IAEA Board legal grounds for a non-compliance finding and a report. They were confident that the Director General would be able to persuade a

majority of Board members that involving the Security Council would be a strategic mistake. And they may have calculated that NAM members of the Board, together with Russia and China, would combine to block the adoption of a non-compliance finding and report.

Is there a solution that reconciles the Security Council's demand for suspension and Iran's demand that its right to enrich be recognised? Personally, I doubt it. My understanding is that Iran is ready to offer quite a lot in the way of assurances that nuclear material will not be diverted to military purposes, and even in the form of confidence-building measures, in return for recognition of its rights and toleration of its enrichment programme – but not suspension.

I can think of only one thing that might cause Iran to re-suspend. That is new evidence that Iran is currently in possession of nuclear material that has not been declared to the IAEA. Such evidence would be deeply embarrassing for Iran since Iran has repeatedly assured its friends that it does not have a clandestine programme. To overcome that embarrassment, and to regain the trust of its friends, might Iran agree to re-suspend, and re-apply the AP, if that was what its friends asked Iran to do?

That would be an ill wind that blew some good. But would it lead to a resolution of the crisis? I doubt it, because a second major safeguards failure by Iran would make it almost impossible for the West to recognise Iran's right to enrich and to tolerate an Iranian enrichment programme, even if re-application of the AP led the IAEA to conclude that there was no further undeclared nuclear material in the country.

Now for two personal observations.

In the West the absence of public reference to legal constraints on the choice of policy options is worrying. Western politicians talk as though they are free to mount an attack on Iran whenever they please, and they rarely reprimand Israel's leaders for repeatedly threatening to destroy Iranian nuclear facilities by force. Not only is this crude diplomacy, because there is no sign of these threats affecting Iranian behaviour, and little reason to think it ever will; but it is also short-sighted. Respect for international law and international norms is a cornerstone of the international order created since 1945. Lack of respect can therefore be fatal to that order.

In this case it is not only the UN Charter of which I am thinking, especially Article 2, but also of Security Council Resolution 487. In that resolution the Council strongly condemned the Israeli attack on the Iraqi reactor at Osirak as a clear violation of the Charter and "of the norms of international conduct". It called on Israel to refrain from any such act in future, or threat thereof, and it placed on record that the attack constituted a serious threat to the NPT regime.

You will probably think I am overdoing it if I remind you how the League of Nations was undermined by League members' neglect of legal obligations in 1931 and 1935. You would be right to do so, I suspect, but not by much. I make the point to emphasise that we must try to solve the Iranian problem without damaging the international system – a system that is the best yet devised, in my view. This means that we must recognise that our options are constrained by international law and norms of behaviour. We cannot just act however we please in the name of Realpolitik,

because the age of Realpolitik has been succeeded by the age of collective security based on the rule of law - thank goodness.

Second observation. Most of you will no doubt recall the panellists in yesterday's session on the Cuban missile crisis agreeing that the crisis shows the importance of transparency. A lack of transparency can be fatal, whereas with transparency solutions to problems can be found, and a modus vivendi that allows parties to coexist can evolve.

It has long seemed to me that the Iranian problem is bedevilled by a lack of transparency and straight-talking on both sides. The Iranian side pretends that its programme is entirely peaceful, whereas we all know that this programme will allow Iran to take advantage of a feature of the NPT that has been present from the start: the possibility of becoming a threshold nuclear-armed state (NAS) without violating the Treaty's core provisions. And the Western side pretends that becoming a threshold NAS is outlawed by the NPT, even though several NPT parties allied to the West are threshold NAS, and even though State Department officials recognised as far back as 1968 that the NPT would allow states to attain "nuclear pregnancy" without violating the Treaty.

It is time both sides stopped pretending, time they set about devising a solution which recognises these realities and minimises the risk that Iran will be tempted to misuse a capability that is not outlawed by the NPT. I like to believe that it would be more productive for diplomacy to address this motivational element in the threat equation – what are the factors that might tempt Iran to misuse a threshold capability? – than to wrestle with the hopeless challenge of preventing the acquisition of technology that Iran has a treaty right to acquire.