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Clarifying and Strengthening the Iran-European Nuclear Accord

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Brief Analysis

On November 25, the International Atomic Energy Agency (IAEA) Board of Governors will meet to consider Iran's nuclear program, in light of the November 14 Paris Accords between Iran and Britain, France, and Germany (the E3). If the Paris Accords are going to work as a stepping-stone toward ending Iran's nuclear weapons ambitions -- rather than as a stalling tactic while Iran makes progress on that program -- several steps will be necessary to clarify and build on the Paris Accords.

Background: The Inspections Quandary

The November 15 IAEA report about Iran (GOV/2004/83) once again documents the impressive technical expertise and dogged determination of the IAEA staff in ferreting out Iran's nuclear activities. But the IAEA report can lead to two very different policy conclusions depending on what criteria are used to judge a country's proliferation record.

The test that IAEA directors general and board have generally favored is cooperation with the IAEA. Since the November 15 report says Iran's cooperation has dramatically improved and there remain only two "important issues relevant to the Agency's investigation in order to provide assurance there are no undeclared enrichment activities in Iran," the IAEA staff may within a few months report that the Iran file has been resolved. The problem with this approach is that Iran may be cooperating in order to learn from inspectors' questions what are the critical technologies for a nuclear bomb. And Iran's seeming cooperation may simply mean that Iran is learning how to better conceal, by watching how the IAEA unraveled Iran's earlier erroneous statements.

The alternative test is whether Iran has complied with its obligations. Here the answer is clearly no. The November 15 report identifies fifteen separate Iranian "fail[ings] to meet its obligations under its Safeguards Agreement," some dating back to 1985. It also describes how Iran has repeatedly changed its stories, especially about the crucial enrichment program -- which started in 1985 rather than 1997 as Iran claimed; used imported components rather

than being entirely domestic as Iran claimed; included tests with nuclear material, which Iran had denied; and involved two centrifuge types rather than the one Iran had acknowledged.

The Paris Accords straddle the fence about which test is the determining one. On the one hand, the accords imply that full cooperation will bring Iran a variety of political, economic, and security benefits. On the other hand, the basic point of the accords is to insist Iran must do something the Treaty on Nonproliferation of Nuclear Weapons (NPT) does not require -- namely, forego a full nuclear fuel cycle -- presumably because Iran's past compliance record shows it cannot be trusted with a technology so open to diversion into a bomb program. Given this fundamental ambiguity underlying the Paris Accords, it is appropriate for Washington to learn more about EU attitudes on some key issues as discussed below.

Closing the NPT Door Before Iran Leaves

Faced with Iranian leaders' threat to leave the NPT if the West presses too hard about Iran's nuclear program, now is the time to have the UN Security Council (UNSC) make clear the serious consequences of withdrawal. The toughest -- and cleverest -- position has come from France, which has framed the issue in a way well designed to secure support at the Security Council, namely, as simply reaffirming existing international law (see NPT/CONF.2005/PC.III/WP.22). France's exact wording is, "Without prejudice to other measures that the UNSC may decide, a State that withdraws should -- in any case -- no longer make use of all nuclear materials, facilities, equipment or technologies acquired in a third country before its withdrawal. Such facilities, equipment and nuclear material should be returned to the supplying State, frozen or dismantled under international verification." As a practical matter, this would mean that if Iran withdraws from the NPT, it has to dismantle or freeze the Bushehr power plant -- which would be a heavy blow to the Islamic Republic, having invested so much political capital in Bushehr. France has also proposed clarifying, "In accordance with international law, a State that withdraws from the NPT (Article X) remains responsible for violations committed while still a party to the Treaty." These suggestions should be acted upon without delay.

Getting G8 Agreed Safeguards Before Bushehr Is Fueled

Iran claims that a contract with Russia about fueling Bushehr -- slated to start in 2006 -- will be signed during the scheduled December visit to Tehran of Aleksandr Rumyantsev, head of the Russian Atomic Energy Agency, although both Iran and Russia have often claimed in the past that the contract would soon be inked. Before the United States abandons its decade-long vigorous opposition to fueling Bushehr in favor of the Paris Accords' tacit approval of Bushehr, it should insist on a G8 consensus on two elements that are by no means assured of occurring otherwise, even though they seem like obvious points. The first is that the IAEA should use the Iran case to build on and extend the updating of its safeguards started with other countries; the past practice of bimonthly inspection visits should be supplemented by cameras, environmental sampling devices, and other modern monitoring equipment sending data in near real time to IAEA headquarters, with inspectors stationed permanently on-site to make sure the equipment works properly. The second is that spent fuel unloaded from the reactor must be returned to Russia quickly, rather than sitting for years in cooling ponds (the usual procedure) where it would provide a ready supply of bomb-useful plutonium if Iran were to break out from the NPT. Each of these measures will be expensive, and financing guarantees should be sought in advance.

Learning Europe's Plans for the Security Talks

The Paris Accords call for launching negotiations in the first half of December 2004 on "political and security issues," in parallel to talks on nuclear issues and "technology and cooperation." At a minimum, Washington should ask for consultation with the E3 about what will be discussed and press to see that Iran be asked to agree to immediate confidence-building measures (CBMs):

Missiles. As a CBM, Iran could be asked to provide information about why the most recent launch, in August, of its

long-range Shehab 3 missile involved a much modified missile with a unique nose-cone design, which just happens to be well suited for fitting a basic nuclear weapon into the missile (though there are other plausible explanations for the change). Any full agreement with Iran should be contingent on an accord about the number and range of long-range Iranian missiles.

Hizballah. On November 7, Hizballah proudly announced and Israel confirmed that an Iranian-supplied drone overflowed Israeli airspace, beaming back video intelligence. As a CBM, Iran could be asked at least to cease shipping any new military technology to Hizballah, and preferably to stop providing any new arms. A full agreement with Iran should depend upon Tehran supporting the disarming of Hizballah's militia, even if that has to be in the form of folding it into Lebanese forces, and the disposal of its stock of thousands of rockets.

Al-Qaeda. Iran acknowledges that some al-Qaeda leaders are on its soil, claiming they are under arrest, but it has refused European entreaties to provide the names or pseudonyms of those it is holding. This issue should be revisited immediately, in light of the Paris Accord pledge, "Irrespective of progress on the nuclear issue, the E3/EU and Iran confirm their determination to combat terrorism, including the activities of Al Qa'ida and other terrorist groups such as the MeK." Any full agreement with Iran should require the expulsion of these al-Qaeda leaders.

Clearing up Potential Loopholes in the Paris Accords

The detailed language in the accords about what activities Iran must suspend should preclude some of the tricks Iran used after the initial October 2003 agreement with the E3, which Iran insisted allowed it to continue producing centrifuges. However, Iran has already shown that it is determined to exploit every last ambiguity in the Paris Accords: to European surprise, it insisted on producing enrichment feedstock up until the very minute of the entry-into-effect of the agreement on November 22. Given this record, several important issues passed over in silence need to be tied down:

Will Iran suspend work on parallel routes to acquiring fissile material? For instance, Iran has proudly told the IAEA that it is building a heavy-water plant and will soon start construction of a heavy-water reactor, which is well designed to produce fissile material. There is nothing in the agreement to prevent Iran from continuing down this path.

Will Iran allow inspections designed to determine if it is working on nuclear warhead design? Iran has permitted IAEA inspections of a number of defense-related sites, but, as the IAEA report points out, Iran insists this has been as a voluntary CBM (which Iran could therefore suspend without calling the Paris Accords into question). The report also notes Iran has refused to allow inspection of a military site in the town of Parchin; the United States describes the Parchin facility as being well designed for testing the conventional explosives needed to initiate the chain reaction (which is what causes the actual explosion in a nuclear bomb).

Preventing More Irans

France has proposed tough standards that would apply to all countries designed to prevent other states from going down Iran's route of exploiting weaknesses in the NPT (see NPT/CONF.2005/PC.III/WP.22).

The first would make clear that rather than the IAEA having to catch a country cheating red-handed, the burden of proof is on countries to show that their intentions are peaceful: "nuclear cooperation should be suspended with States for which the IAEA cannot provide sufficient assurances that their nuclear program is devoted exclusively to peaceful purposes, until the IAEA provides such assurances."

The second would clarify under what conditions a country may have access to dangerous technologies, including enrichment, reprocessing, and heavy water. Contrary to Iran's repeated claims it has a right to these technologies under the NPT, the treaty only guarantees access to nuclear energy (i.e., just the power plants) while remaining silent

about the fuel cycle -- a matter much debated during the NPT negotiations. France proposed that all countries be bound to block exports of such technology unless the recipient can meet a series of eight tough criteria, including "an economically rational plan for developing such projects"; "the highest standard of non-proliferation commitments"; and "an analysis of the stability of the country and the region concerned."

Implications for U.S. Policy

The U.S. government's agnosticism about the Paris Accords is rooted not in the specific provisions of the accords but in Iran's bad track record. Added to which are the doubts about Iran's commitment raised by the harsh criticism of the accords by prominent Iranian politicians; for instance, Ali Larijani -- often cited as one of the more pragmatic and knowledgeable conservatives -- described Iran's concessions as "giving a pearl in exchange for candy." Only an extended period of Iran's full cooperation will reduce U.S. concerns that Iran is stalling while continuing a clandestine program.

While remaining skeptical about the Paris Accords, Washington should consider more active pressure on some related issues, especially on those areas where the French government has been out in front proposing strong measures. A good time to start that more active pressure would be this week, given that the E3 are eager to see the IAEA board adopt by unanimous consent a statement about the Paris Accords.

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