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PROSPECTS FOR A COMMON TRANSATLANTIC STRATEGY TO DEAL WITH THE NEW TRENDS IN NUCLEAR PROLIFERATION

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Origins of an EU Strategy

Members of the European Union, shaken by their failure to unite on pre-war strategy toward Iraq, decided in late 2003 that they needed a new approach for dealing with future security challenges and in particular from the threats posed by nuclear, chemical, or biological weapons and materials. The EU-25 adopted the European Security Strategy and to reflect their priority to move forward on WMD non-proliferation they adopted a far more detailed statement including action points in the landmark 'Strategy Against Proliferation of Weapons of Mass Destruction"[1] More immediately, three European nations-- France, Germany, and the United Kingdom plunged into negotiations with Iran to prevent a nuclear crisis with Iran from creating a fresh diplomatic debacle. Although on 26 June 2004 the EU-US agreed a joint declaration on the non-proliferation of weapons of mass destruction which underpinned a developing agenda on non-proliferation, the US remained skeptical about the EU approach to Iran.[2]

Post 9/11, Iraq and Madrid there is a recognition in Europe that the threat is evolving and we can indeed see convergence on a transatlantic threat assessment. This includes an understanding for the need to adress WMD proliferation and potential threats from terrorism, fragile states, prolfieration of materials and technology, cold war clearup of fissile materials and facilities, and in the contrext of regional security ongoing concerns of accidental or even deliberate use of nuclear weapons especially in Asia and the Middle East.

However the clear tensons shown over the lead up to the War in Ira have not dissapeared completely. In fact this tension is not just between Europeans and the US it is manifest at the heart of the EU's own historical breakthrough to deal with the non-prolfieration of Weapons and Materials of Mass Destruction. In particular the key to strengthening a common transatlantic stratgey on non-prolfieration will be the ability for EU Memebr States to continue to support their WMD Stratgey adopted at the December European Council in 2003. This will require political will to find a balance between non-prolfieration prioties and concrete diarmament initiatives. It will also require sustained political commtiment to the WMD Stratgey and support for the EU Personal Representative for WMD as well as a continued commitment of resources to implement the list of priorties drawn up by the Office of the PR (OPR).

We can already see a strong Euroepan commitment in the 2003 European Security Stratgey and in particualr the WMD Stratgey to support a transatlantic approach to adressing the threat from nucelar prolfieration. The EU stratgey shows a willingness by

[1] EU Strategy Against Proliferation of Weapons of Mass Destruction (WMD), Brussels, December 12, 2003. See http://ue.eu.int/uedocs/cmsUpload/st15708.en03.pdf.
[2] http://europa.eu.int/comm/external_relations/us/sum06_04/decl_wmd.pdf

Europeans to be innovative and willing to reach out to the US in supporting new iniaitves such as PSI, UNSC 1540 and G8 Global Partnership and even contribute to the debate on the use of force. The EU has made good progress, despite the dissapointment at the NPT Review cofnerence, as set out in the Progress Report of the OPR and in the additional list of priorities. This has been supported by recent European Parliament resolutions and an emerging report from its new sub-Committe on Secuirty and Defence (SEDE). However the tension in the original deal within the Union on stricking a balance between disarmament and non-proliferation priorties also reflects an ongoing tension in the EU-US transatlantic relationship that has yet to be fully played out and which surfaces at moments such as the NPT Review Conference and indeed in the present US-EU-3 approach to Iran.

These tensions remain and in addressing a common threat assessment they have the potential to frustrate or weaken the emerging common transatlantic strategy.
This presentation will outline where those tensions exist by looking at the NPT Review Conference and highlighting that the recent US change to support the EU-3 initiative with Iran will prove an important testing ground for the European approach and for convincing Washington of the merits of balancing its non-proliferation priorities with the need to build bridges with those favouring more multilateral processes. The presentation will then conclude that a common transatlantic deal for tackling non-proliferation is emerging but at the price of neglecting disarmament obligations (under article VI of the NPT) which may ultimately undermine the sustainability and success of the common approach.

The EU at the NPT Review Conference

Tensions inherent in the transatlantic approach to non-proliferation are indeed at the heart of the EU WMD Strategy and can be highlighted by looking at the EU's development of a common position for the recent and disappointing NPT Review Conference. The EU played a crucial role in securing the indefinite extension of the NPT in 1995 and it helped to achieve the Final Document at the 2000 Review Conference, which contained new and specific commitments by the nuclear-weapon states toward disarmament i.e. the so-called 13 steps.

However, it was unable to act to save the 2005 Review Conference. Although the role of the US, Iran and Egypt have been singled out in particular for this outcome all States Parties including those of the EU have to accept responsibility for this outcome.
In fact the EU WMD Strategy clearly makes it a priority to "pursue the universalisation of the NPT, the IAEA Safeguard agreements and protocols additional to them."[3] A new Common Position, which reflected a consensus position and guideline for EU action before and during the conference, was approved by the European Council meeting on April 25-26 2005. It committed the EU and its member states "to strengthen the international nuclear non-proliferation regime by promoting the successful outcome" of the 2005 NPT Review Conference. [4] The Common Position included 43 distinct

[3] EU WMD Strategy, chap. 2, para. 16.
[4] Council Common Position relating to the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. Council of the European Union, Brussels [April 25, 2005]

measures to achieve this goal and mandated the EU Presidency to undertake demarches in order to convince both NPT and non-NPT member states of the EU approach.

Non-proliferation

The EU's non-proliferation policy emphasizes improving the verifiability of multilateral treaties and "strengthening the enforcement of obligations" in multilateral treaty regimes.[5] Generally speaking, the EU has moved closer to the United States on many compliance issues, including the possible use of force to enforce compliance, but Europeans continue to favor approaches that take place within multilateral frameworks such as the Security Council.

Like the United States, the EU supports the idea of making the 1997 Model Additional Protocol the new safeguards standard under Article III of the NPT[6] and wants the IAEA Board of Governors to adopt such a new verification norm.[7] The EU also will be "working to ensure that the Nuclear Suppliers Group makes the export of controlled nuclear and nuclear-related items and technology conditional on ratifying and implementing the Additional Protocol."[8] What this means in practice, however, is still being debated.

The EU has also agreed to some U.S. proposals for IAEA reform. The EU now agrees that "countries under investigation for non-technical violations of their nuclear non-proliferation and safeguards obligations should elect not to participate in decisions by the IAEA Board of Governors or the Special Committee regarding their own cases."[9] This idea had originally been proposed by Bush in February 2004 and was endorsed at the Group of Eight (G-8) summit in June 2004.

EU officials have focused on the inclusion of all new EU member states in the export control regimes, and its bureaucracy will compile a prioritized list of third countries that could benefit from EU assistance vis-à-vis export controls.

A "non-proliferation clause" to be included in agreements with third countries was drawn up and has been included in agreements with Syria, Tajikistan, and Albania as well as between the EU and the African, Caribbean, and Pacific countries—the revised Cotonou Agreement. There are also ongoing discussions to include the clause agreements with the Gulf Cooperation Council and Mercosur countries.[10] As in the negotiations with Iran, this marks one of the few instances where Europe is directly using its economic might to achieve security objectives.

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[5] See EU WMD strategy. See also "Council Common Position 2003/805/CFSP of November 17, 2003 on the Universalization and Reinforcement of Multilateral Agreements in the Field of Non-Proliferation of Weapons of Mass Destruction and Means of Delivery," art. 2.
[6] "EU-U.S. Declaration on the Non-Proliferation of Weapons of Mass Destruction," 10761/1/04 REV 1 (Presse 206), June 26, 2004 (hereinafter WMD declaration press release).
[7] NPT Common Position, op. cit. para 17.
[8] EU WMD Strategy, chap. 3, para. 29, A4.
[9] WMD declaration press release.
[10] "'Non-Proliferation Clause' to Be Included in Agreements With Third Countries: Countering Proliferation of Weapons of Mass Destruction," available at http://ue.eu.int/uedocs/cmsUpload/st14997.en03.pdf

On April 28, 2004, EU member states on the Security Council co-sponsored Resolution 1540 on WMD non-proliferation and contributed actively to its adoption by consensus. Unlike many other states, the commission submitted the Common EU report to the 1540 Committee by the October 28, 2004, deadline.

The EU WMD strategy also embraces the Bush administration's Proliferation Security Initiative (PSI), a political arrangement that calls for the interception of WMD and related goods.[11]

On other issues, including discussions on reforming Article IV rules governing control of the nuclear fuel cycle, the EU has simply decided to put off a clear policy decision until after the conference. Two models are on the table: Washington has proposed the creation of a cartel of states possessing nuclear fuel-cycle technologies by denying all states that do not yet possess operational enrichment or recycling facilities technology the capacity to build such facilities. European states, however, have thus far only agreed to a one-year moratorium on delivery of enrichment and reprocessing equipment to other states.[12] This compromise was reaffirmed at the U.S.-EU summits in June 2004 and February 2005.

IAEA Director-General Mohamed ElBaradei, on the other hand, proposes multinational control of new enrichment and reprocessing facilities.[13] Europeans possess real experience in multinational management of enrichment plants because the only two examples of such facilities—Eurodif, a French-run enrichment facility in which Belgium, Italy, and Spain participate; and Urenco, a multilateral enrichment company jointly operated by Belgium, Germany, and the United Kingdom—are located in the EU. Nevertheless, the EU has not yet taken clear sides on this issue. The EU has highlighted that any decision on this question "should not create new dividing lines among NPT states-parties and should be balanced, maintaining the fundamental bargain underlying the NPT."[14] The EU's Common Position for the NPT Review Conference recognizes that states "may" have to resort to peaceful uses of nuclear energy, urges "the formulation of guarantees to nuclear fuel services, or to fuel itself, subject to appropriate decision", and calls for a swift start of deliberations within the IAEA on a report by an international IAEA expert group that was delivered to ElBaradei on February 22, 2005.[15]

One major distinction between the EU strategy and that of the United States is the emphasis it places on the regional security concerns that motivate states to obtain nuclear weapons. Such motives could include enhancing regional standing or countering the capabilities of potential regional foes. The Europeans maintain that regional political

[11] See "Non-Proliferation Support of the Proliferation Security Initiative," 10052/04 (Presse 189), June 1, 2004, available at http://ue.eu.int/uedocs/cmsUpload/st10052.en04.pdf.
[12] Office of the Press Secretary, The White House, "Remarks by the President on Weapons of Mass Destruction Proliferation," Washington, DC, February 11, 2004.
[13] Mohamed ElBaradei, "Toward a Safer World," *The Economist*, October 18, 2003, p. 43.
[14] De Visser statement, para. 34.
[15] NPT Common Position, op. cit. paras 27,-29; „Multilateral Approaches to the Fuel Cycle", Expert Group Report submitted to the Director General of the International Atomic Energy Agency, Vienna, INFCIRC/640, 22 February 2005.

solutions will offer the best prospect for states to renounce nuclear weapons and join the NPT. Such an approach is seen as useful in the context of the Iran negotiations to support "compliance," but it is also recognized as a complementary strategy to support processes for universal membership in WMD regimes.

The EU strategy states that member states must "actively foster the establishment of regional security arrangements and regional arms control and disarmament processes. Our dialogue with the countries concerned should take account of the fact that in many cases they have real and legitimate security concerns, with the clear understanding that there can never be any justification for the illegal development of WMD."[16]

Yet, deeds have yet fully to match words. Apart from European engagement to resolve the crisis around Iran's nuclear program, EU engagement on regional proliferation issues has only included modest attention to North Korea. Until the political process associated with the Korean Peninsula Energy Development Organization (KEDO), the international cooperation to supply North Korea with proliferation-resistant light-water reactors, broke down in 2003, the EU supported attempts to resolve the crisis around the North Korean nuclear program. It provided 115 million euros for KEDO and undertook diplomatic missions to Pyongyang, including the visit of the EU-3 in May 2001. For the moment, it seems that the EU has realized that it cannot often be expected to perform the kind of mediating role it has attempted to play vis-à-vis Tehran.

Divisions over Disarmament

Still, the EU policy on non-proliferation has been far more coherent than on issues affecting disarmament obligations under Article VI of the NPT. The establishment of a progressive common policy approach has been blocked by the differences between the two EU states with nuclear weapons—France and the United Kingdom—and other members, including such pro-disarmament countries as Sweden and Ireland. Internal divisions within the EU on disarmament issues have increased. In fact, one could argue that at the NPT the EU's did not live up to expectation, such as raised by its common position, to be a constructive force at the NPT and it appeared more a microcosm of global divisions on non-proliferation and disarmament between nuclear-weapon states and non-nuclear-weapon states. Its common position stated that it would "help build a consensus on the basis of the framework established by the NPT by supporting the Decision and the Resolution adopted at the 1995 Review Conference, and the final document of the 2000 NPT Review Conference, and shall bear in mind the current situation …".[17] This statement did not even clearly endorse the 13 disarmament steps but we will have to await fuller analysis of the EU's role at the NPT.

There are also divisions within the EU on some specific issues discussed at the NPT, mostly triggered by the U.S. rejection of some of the 13 steps. On July 29, 2004, the United States announced a change of policy toward the negotiation of a fissile material cutoff treaty (FMCT), a binding agreement to end production of fissile materials for nuclear weapons. U.S. officials argued that it no longer believes that such a treaty could

[16] EU WMD strategy, para. 21.
[17] NPT Common Position, op.cit., Article 2 (b).

be effectively verified and that it now favors negotiations on a treaty that does not contain provisions on verification.

This change in policy by the United States has shattered the EU consensus to commence FMCT negotiations on the basis of 1995 Shannon mandate, which called for including effective verification measures. But which has been in deadlock for eight-years at the UN's Conference on Disarmament (CD) along with other arms control treaties. Others such as Sweden insist that the CD negotiate a verifiable FMCT.[18] The EU Common Position has it both ways. It endorses the early start of negotiations in the CD on a "non-discriminatory, universally applicable" FMCT "without precondition" but also mentions the Shannon mandate.[19]

The withdrawal of tactical U.S. nuclear weapons deployed under NATO nuclear sharing arrangements remains a taboo for the EU.[20] Improved transparency and better control of Russian tactical nuclear weapons has been highlighted by several EU member states during NPT preparatory meetings and the Common Position calls "on all States with non-strategic nuclear weapons to include them in their general arms control and disarmament processes, with a view to their reduction and elimination."[21]. But so far the EU is unwilling talk about such weapons deployed on its own territory. NATO enlargement and the withdrawal of U.S. nuclear weapons deployed in Greece have increased the potential for political movement on this difficult issue, but no consensus on a non-nuclear NATO has emerged yet among European NATO members.

Agreement within the EU on some other disarmament issues may be easier to generate. All EU member states have ratified the Comprehensive Test Ban Treaty (CTBT) and are supportive of early entry into force of the treaty. The EU has focused on encouraging signature and ratification by non-CTBT member states, in particular those of the 44 states whose ratification is necessary for the treaty's entry into force but have yet to do so.[22] However progress on this issue at the NPT suffered the same fate as the others. Given the EU's long-standing engagement in favor of the test ban treaty, its position on this issue will be one important test for Europe's will to articulate an independent position on an important disarmament issue.

In touting its disarmament credentials, the EU can point to its support for the G-8 Global Partnership and similar efforts to secure or destroy former Soviet stockpiles of nuclear, chemical, and biological weapons and related delivery systems. Under the Global Partnership, the United States has pledged $10 billion over 10 years, and EU G-8 member states (France, Germany, Italy, and the United Kingdom) have pledged a total of 4 billion euros for cooperative threat reduction activities.

The EU through the European Commission has committed a further 1 billion euros, but most analysts project that, if spending continues at current levels, the EU will only meet

[18] Laila Freivalds, statement to the Conference on Disarmament, Geneva, March 15, 2005.
[19] NPT Common Position, op.cit., para 36.
[20] See Hans M. Kristensen, "U.S. Nuclear Weapons in Europe. A Review of Post-Cold War Policy, Force Levels, and War Planning," February 2005. See also H. Beach, "Tactical Nuclear Weapons: Europe's Redundant WMD," *ISIS*, April 2004.
[21] NPT Common Position, op.cit., para 31.
[22] See "Council Decision 2003/567/CFSP of July 21, 2003 Implementing Common Position 1999/533/CFSP Relating to the European Union's Contribution to the Promotion of the Early Entry Into Force of the Comprehensive Nuclear Test-Ban Treaty."

half of its pledge. Recently, the European Commission has proposed to stabilize European Community spending on non-proliferation during 2007-2013 with the inclusion of a WMD budget line.

Iran

The first major test for the EU's WMD Strategy came in August 2002 with the revelation that Iran possessed clandestine uranium-enrichment and heavy-water production facilities. This led to an International Atomic Energy Agency (IAEA) investigation and concerns, particularly on the part of the United States, that Iran might be developing nuclear weapons. The resulting IAEA investigation revealed other serious breaches of Iran's safeguards obligations.

Talks between the foreign ministers of France, Germany, and the United Kingdom (the EU-3) and Tehran began in October 2003 as a crisis management exercise. They have subsequently deepened under the Paris agreement struck in November 2004 to replace the botched Tehran agreement and lessons have been learnt from its predecessor's failure. Its terms and scope, for example, were more detailed. In the new agreement, the EU demanded "objective guarantees" that Iran will not misuse its nuclear program for military purposes. By this, the EU means that Tehran should abandon enrichment and reprocessing activities. In return, the EU offered more specific political and economic inducements, including on the resumption of talks on a Trade and Cooperation Agreement. In addition, the duration of suspension was more clearly defined: "while negotiations proceed on a mutually acceptable agreement on long-term arrangements." During the NPT Review Conference in May the EU-3 managed to maintain Iran's commitment to suspension whilst we await a final position of the Europeans after Iranian elections. Still, no breakthrough has been achieved on the central question of whether Iran will give up its capacity for enrichment and reprocessing completely.

A key element of the EU strategy is the use of economic incentives to achieve the political objective of non-proliferation. The process is coordinated and reviewed by a joint steering committee that meets occasionally at the level of political directors. More regularly, three working groups come together to discuss nuclear, technological, and economic cooperation as well as security issues.

To date, the Paris agreement can already be seen as something of a success for European non-proliferation policies. Iran has so far stuck to its part of the deal and suspended enrichment and reprocessing and related activities. Consequently, the agreement has already bought valuable time to seek a sustainable solution. Whether the talks will result in such a long-term solution of the dispute remains to be seen.

As the talks move forward, the Europeans find themselves facing two problems that might limit their broader ambitions to establish an independent and coherent non-proliferation policy. First, unlike the United States, the EU has few incentives to offer. Iran's wish list is likely to include the lifting of U.S. sanctions, the delivery of nuclear fuel and nuclear technology, and security assurances, all of which the United States is better positioned to address than the EU. It can thus be seen as a success for Europeans

that, following his visit to Europe at the end of February 2005, President George W. Bush initiated a review of the White House's position toward the European talks. As a result, the United States now supports the idea of offering incentives to Iran. Washington has agreed to license civilian aircraft parts for sale to Iran on a case-by-case basis and not to object to Iranian membership in the World Trade Organization. If Washington were to stick to its word, this instance would be one of the few when Europeans have successfully drawn Washington closer to its negotiating position. Ironically, perhaps the greatest "carrot" Europe may have to offer Iran is bringing the United States to the bargaining table.

Second, the EU's insistence that Iran give up its plans to construct a closed nuclear fuel cycle goes beyond its traditional preference for solving non-proliferation problems within the framework of multilateral treaties. The NPT provides no legal basis for the European's demand that Iran abandon enrichment and reprocessing activities. After all, Article IV of the treaty provides for the "inalienable right" of non-nuclear-weapon states to research, develop, and use nuclear energy for non-weapons purposes.

Conclusion: Towards a common Transatlantic Strategy on non-proliferation

A rich agenda is developing whereby one can see a convergence of EU and US approach to tackling nuclear proliferation. This has been one positive outcome of an otherwise destructive approach by the Bush administration to dealing with the new threats. The Bush administrations approach has forced Europeans to re-examine the failings of multilateral approaches embedded in the non-proliferation treaties and set a positive common strategy for dealing with the threats. The burden of proof has shifted from statements of support to the multilateral non-proliferation regime to setting out concrete actions for achieving multilateral non-proliferation. In fact this reflects a similar process undertaken at the UN under the High Level Panel on Threats, Challenges and Change and captured in UN Secretary General Kofi Annan's response entitled 'In larger freedom: towards development, security and human rights for all'. Where in the latter he underlines the importance of multilateral agreements in safeguarding international peace and security in the field of nuclear, biological and chemical weapons as well as recent efforts to supplement shortfalls such as in Security Council Resolution 1540 (2004). The EU arrived at this position with its WMD Strategy in December 2003.

However, article VI disarmament objectives are generally viewed as being neglected even more so after the outcome of the NPT Review Conference. In this respect the transatlantic approach could be strengthened by providing clear leadership on disarmament matters and taking important early steps to ratify the CTBT, begin negotiations on the FMCT including the so-called 'shannon mandate', renewing negative security assurances (removing the ambiguity creeping into nuclear postures in response to Chemical and Biological Weapons), withdrawal of all (US and Russian) tactical nuclear weapons from Europe….

The nuclear non-proliferation agenda is developing well in particular on UNSC 1540, PSI, G8 Global Partnership. However, even this agenda could do with a little critical

reflection in order to strengthen it. At present there appears to be an 'either non-proliferation or disarmament' debate going on with extreme views defending either end of the spectrum. The transatlantic approach could be strengthened by examining the non-proliferation agenda in order to strengthen it. This could involve examining:

- the G8 Global Partnership, with the development of analysis on progress in implementation and lessons learnt in the current largely bi-lateral approaches to dealing with Russia. This might help resolve US problems with indemnifying personnel and it would be useful if Russia was more transparent on the extent of the cold war stockpiles, including bio-weapons materials and facilities, to be addressed.
- UNSC 1540 has been widely welcomed but its current 2 year mandate is almost half way through and its is limited to monitoring received reports. It would be worth examining its limited mandate with that of the Counter Terrorism Committee which has also been provided with the resources to send teams to countries to verify the accuracy and validity of their reports.
- in the European context whether the WMD Strategy is adequately resourced in order to achieve the priorities set out in the list of the Progress Report from the OPR.