

The Policy of “Critical Dialogue”

**An Analysis of European Human Rights Policy
towards Iran from 1992 to 1997**

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Abstract

This paper analyses the European Union's policy of 'critical dialogue' with Iran from 1992 to 1997. Based on a 'constructivist' approach it is claimed that the 'critical dialogue' resulted from the increasing importance of human rights in the Union's Common Foreign and Security Policy. The 'critical dialogue' attempted to change Iranian behaviour and strengthen 'moderate' forces in Iran by keeping a dialogue on human rights, the *fatwa* against Salman Rushdie, the Iranian stance on the Arab-Israeli Peace Process, and Iran's alleged support for terrorism. Although the 'dialogue' produced little tangible results, structural changes both in Iranian domestic and foreign policy give evidence that the 'dialogue' has been partly successful. The 'critical dialogue' was suspended in 1997 after a German court found the Iranian leadership guilty of ordering to assassinate four members of the Iranian-Kurdish opposition in Berlin.

In contrast to the EU the United States pursued a policy of 'containing' Iran through economic sanctions. The policy differed from the European concept both in means and priorities. While the EU's primary concern was Iran's internal human rights conduct and its regional behaviour, U.S.-policy focused on alleged Iranian support for terrorism, its quest for weapons of mass destruction, and its opposition to the Peace Process. In 1995 the United States imposed a unilateral trade-embargo against Iran and in 1996 sanctions against companies investing in the Iranian oil-sector.

The election of the 'moderate' President Khatami and the following 'opening' in Iran's domestic and foreign policies led to a complete reassessment of European and American policies. The EU initiated a 'comprehensive dialogue' emphasising its previous concerns, while the U.S. government seeks a 'genuine reconciliation' with Iran, mainly to re-vitalise economic relations and to integrate Iran into the security-structure in the Gulf. Due to the inherent differences in their approaches, however, a common Euro-American policy towards Iran seems unlikely.

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I want to emphasise, however, that anything written here, the good and bad parts, is entirely of my own making.

I. Introduction

Policy-makers trying to base policies on principles like human rights rather than *realpolitik* suffer from a classical dilemma: *Realists* claim that in a world of anarchy ethical norms have to be subordinated to national security interests, while *idealists* seldom find the measures taken to promote universal justice sufficient.¹ After the end of the Cold War this dilemma re-emerged with a new emphasis on the promotion of democracy and human rights in the world.

The European Union's policy of 'critical dialogue' was an attempt to integrate human rights-concerns into its diplomatic relations with the Islamic Republic of Iran. In 1992 the Council of Ministers declared that Iran's massive domestic human rights abuses, its continued obstruction of the Arab-Israeli Peace Process, its refusal to revoke the *fatwa* against Salman Rushdie, and its alleged sponsorship of international terrorism, had to be opposed by a policy of constructive but critical engagement: the 'critical dialogue'.² The aim was to make clear that the EU did not tolerate Iranian human rights abuses but remained confident that it could strengthen moderate factions in Iran and help them to steer the country back into the haven of the international community.

The United States, instead, rejected the European proposals and pursued a policy of "active containment" against Iran.³ From 1995 onwards the US government implemented increasingly severe sanctions, aiming to "isolate" Iran until it halted its alleged plans to acquire nuclear weapons, its obstruction of the Arab-Israeli Peace Process, and its support for international terrorism.⁴ The European refusal to support the sanctions led to an ongoing crisis in Euro-American relations.⁵

When in April 1997 the verdict of a German court declared that the political leadership of Iran had ordered the assassinations of four members of a Kurdish opposition group in Berlin in September 1992⁶, the policy of 'critical dialogue' was suspended.⁷ The ruling seemed finally to prove the U.S. charge that Iran sponsored terrorism and

¹ cf. the classical discussion in: Vincent, R. John.: *Human Rights and International Relations*. Cambridge et al., 1986, pp.129-150; For the recent debate cf. Halliday, Fred: 'Morality in International Affairs; A Case for Robust Universalism'. Unpublished Paper, London School of Economics and Social Science, 1996.

² cf. 'European Council in Edinburgh, 11.-12.12.1992; Conclusions of the Presidency', DOC/92/8, §15.

³ cf. Indyk, Martin: 'The Clinton Administration's Approach to the Middle East', Keynote Address to the Soref Symposium on 'Challenges to US Interests in the Middle East; Obstacles and Opportunities', *Washington Institute for Near East Policy*, 18-19.5.1993, p.6; cf. also Indyk's comments in: 'Symposium on Dual Containment; U.S. Policy Toward Iran and Iraq', *Middle East Policy*, 1994, pp.1-26, here p.1-7.

⁴ cf. 'Under Secretary Peter Tarnoff, Testimony before the House International Relations Committee: Containing Iran', in: *U.S. Policy Toward Iran*; Hearing before the Committee on International Relations, House of Representatives, 104th Congress, First Session, 9.11.1995. Washington, 1996, pp.45-54.

⁵ Rudolf, Peter: *Konflikt oder Koordination? Die USA, Iran und die Deutsch-Amerikanischen Beziehungen (Conflict or Coordination? The U.S., Iran, and German-American Relations)*, Stiftung Wissenschaft und Politik, Ebenhausen, 1996, p.18f.

⁶ cf. 'Auszüge aus der mündlichen Urteilsverkündung des Berliner Kammergerichts am 10.4.1997 im sogenannten Mykonos-Prozeß' (*Extract from the Oral Pronouncement of the Court of Appeal in Berlin in the so-called 'Mykonos'-Trial*), *Internationale Politik*, no.5, 1997, pp.128-130.

⁷ cf. 'Declaration by the European Union on Iran', Luxembourg, 29.4.1997, PESC/97/41.

hence justified the approach of rigorous sanctions. The decision was followed by an intense discussion on how the American and European approaches could converge. But the dramatic changes caused by the unexpected election of Muhammed Khatami as President of Iran in May 1997 pointed in a different direction: The ‘moderate’ Khatami proposed to open up the Iranian system domestically⁸, and optimists expected that relations would soon improve.⁹ Iran could finally be on the way towards those changes that the ‘critical dialogue’ was initially designed to bring about. This was dramatically underscored when Khatami declared in an interview on CNN in January 1998 that Iran was ready to open a dialogue with the American people.¹⁰ The American President Bill Clinton answered to Khatami’s proposals in June 1998 stating that the United States were seeking a “genuine reconciliation” with Iran.¹¹ But as long as American sanctions remain, American and European policies will remain at odds.

The European Union reacted on the developments in Iran at the European Council in Brussels in March by resuming a “comprehensive dialogue with Iran”.¹² Since this dialogue proposed to address the same concerns referred to in the ‘critical dialogue’ it could be a continuation of the previous policy under a different heading.

The controversy surrounding the conflicting policies has been highly polemical, and the ‘critical dialogue’ has never been thoroughly examined.¹³ This paper analyses the concept of ‘critical dialogue’, evaluates its achievements and failures and asks for the prospects of a joint Euro-American policy towards Iran.

The ‘critical dialogue’ reflects a growing influence of *norms* on foreign policy-making. Human rights norms anchored in the UN Charter and the Universal Declaration of Human Rights have become a universal reference for foreign policy decisions.¹⁴ The theoretical problems inherent in this argument have been widely discussed and cannot be repeated here.¹⁵ What interests us is *why* the EU integrated human rights in

⁸ cf. ‘Iran President Opens Term on Conciliatory Note’, *Reuters News Service*, 3.8.1997.

⁹ Interview with Professor Dr. Udo Steinbach, Hamburg, 1.9.1997; Interview with Dr. Anoushiravan Ehteshami, Director of Postgraduate Studies at the C.M.E.I.S., University of Durham, on BBC 4, 24.8.97, 8.30-9.00 a.m.

¹⁰ cf. ‘Transcript of Interview with Iranian President Mohammed Khatami’, CNN, 7.1.1998 (internet-document at <http://cnn.com/WORLD/9801/07/iran/interview.html>).

¹¹ ‘Remarks by the President on Nomination of Ambassador Bill Richardson as Secretary of Energy, and Richard Holbrooke as Ambassador to the United Nations’, The White House, Office of the Press Secretary, 18.6.1998.

¹² ‘2078th Council Meeting; General Affairs, Brussels’, 30/31 March 1998, PRES/98/86; ‘2104th Council Meeting; General Affairs, Luxembourg’, 8/9 June 1998, PRES/98/190.

¹³ Exceptions are the critiques of Heinrich, Arthur: ‘Zur Kritik des ‘Kritischen Dialogs; Der Sonderweg Bonn-Teheran’ (*On the Critique of the ‘Critical Dialogue’; The Special Relationship Bonn-Teheran*), *Blätter für deutsche und internationale Politik*, vol.41, no.5, May 1996, pp.532-543; Clawson, Patrick: ‘What to do about Iran’, *Middle East Quarterly*, December 1995, pp.39-49; for the only *positive* treatment cf. Ansari, Ali Massoud: ‘They Shall Still Drink Coke; In Defence of the Critical Dialogue’, *The World Today*, vol.52, no.8-9, August-September 1996, pp.209-211.

¹⁴ cf. Vincent, *Human Rights*, fn.1, p.130.

¹⁵ cf. John Rawls’ constructivist argument for universal human rights based on an ‘overlapping consensus’ in international law: ‘The Law of the Peoples’, in: Shute, Stephen; Hurley, Susan (eds.): *On Human Rights; The Oxford Amnesty Lectures 1993*. New York, 1993, pp.42-82, esp. p.46. For recent literature Donnelly, Jack: ‘Post-Cold War Reflections on the Study of International Human Rights’, *Ethics and International Affairs*, vol.8, 1994, pp.97-117, here pp.110-15.

its policy towards Iran, *how* the policy was implemented, and whether it has been successful.

The main argument of this paper is that the ‘critical dialogue’ reflects the European Union’s commitment to pursue an active human rights policy as a core element of the newly established European Common Foreign and Security Policy (CFSP). The CFSP was based on three pillars: the promotion of international security, international (economic) cooperation, and democracy/human rights. Since Iran’s international behaviour made a cooperation in security and economic matters difficult to justify, the EU concentrated on the promotion of human rights and pressure on Iran’s foreign policy while economic ties continued mainly on a bilateral, yet reduced level.

The paper is structured in five parts. Based on a ‘constructivist’ approach to international politics the first section will discuss the influence of norms on foreign policy-making.¹⁶ The heart of the paper is dedicated to an analysis and evaluation of the ‘critical dialogue’. This will be followed by a discussion of the major critics of the dialogue in the United States and Europe. Based on the empirical material, the fifth part returns to the theoretical argument and asks whether the ‘critical dialogue’ lived up to its normative basis. The concluding section then tackles the difficult question of future European and American policies towards Iran, taking into account the dramatic changes since the election of President Muhammed Khatami.

II. Theoretical Framework

All major theories of international relations are based on normative assumptions.¹⁷ The traditional realist perception that human nature is inherently bad and thus interstate conflict is inevitable has been the dominant ‘norm’ in this field of study since World War II. It became the antithesis to the liberal perception that men act according to reason and that progress towards peace may be achieved through education, free trade, and the institutionalization of international affairs.

These normative assumptions have major implications on how policy makers perceive problems and how foreign policy is conducted. It makes an essential difference whether we perceive as the priority of policy towards Iran to maintain a ‘balance of power’ in the Gulf region, to conduct free trade-relations, or whether we perceive the human rights situation in Iran as the crucial determinant of foreign policy.

¹⁶ The core texts used here are: Wendt, Alexander: ‘Anarchy is What States Make of it: the Social Construction of Power Politics’, *International Organization*, vol.46, no.2, Spring 1992, pp.391-425, here p.393f.; Koslowski, Rey; Kratochwil, Friedrich V.: ‘Understanding Change in International Politics; the Soviet Empire’s Demise and the International System’, *International Organization*, vol.48, no.2, Spring 1994, pp.215-47, here p. 222-227.

¹⁷ cf. Brown, Chris: *International Relations Theory; New Normative Approaches*, Hampstead, 1992, p.3; Smith, Steve: ‘The Self-Images of a Discipline; A Genealogy of International Relations Theory’, in: Booth, Ken; Smith, Steve (eds.): *International Relations Theory Today*, Cambridge, 1995, pp.1-37, here p.30; Waltz also asserts that all theories are based on “theoretical assumptions”: Waltz, Kenneth: *Theory of International Politics*. New York et al., 1979, p.117f.

The dominant theories of international politics, neorealism and neoliberalism, have neglected the importance of norms and their crucial impact on foreign policy.¹⁸ Hence they offer little help to understand how human rights norms influenced the reorientation of the EU's foreign policy and the adoption of the 'critical dialogue'.

Neorealist and Neoliberal Approaches to Foreign Policy

The 'systemic' theory of neorealism developed by Kenneth Waltz claims to provide a scientific approach to explain the behaviour of states in the international system.¹⁹ This system is perceived to constitute a realm of policies among states that is distinct from the input of individual agents. The absence of any binding rules governing relations among states determines the anarchic structure of the system and this is not likely to change. States are regarded as the prime actors, perceived to be functionally alike and driven by their will to survival. The systemic position of a state is determined by its capabilities, mainly in military and economic terms. The distribution of these capabilities is the core variable determining stability and change in the international system: the distribution of power.²⁰

Three core normative assumptions underlie this theory: that international relations can be scientifically explained, that states are alike and their internal structure is of no significance, and that the distribution of power is the only variable accounting for change. In this framework, the region of the Gulf is subject to analysis only in terms of the military and economic capabilities of the major states and the likelihood of conflict if the regional balance of power is changed. A military superiority of Iran acquired by a nuclear capability could create a danger of conflict that would determine a policy to prevent Iran from acquiring such weapons. This perception dominates, as we will later see, the current American policy in the Gulf.

The neorealist 'counter theory', neoliberalism, shares many of these assumptions, yet its conclusions are very different. Its major thesis is that the anarchy of the international system can be overcome by institutionalisation, i.e. the likelihood of conflict can be reduced through cooperation.²¹ States are perceived as the prime actors, conducting affairs by pursuing identifiable interests whose priority depends on the possibility of conflict. In areas of high interdependence and good relations, economic interests are the core determinant of policy, and cooperation and trade can in turn reduce tensions and minimise the likelihood of conflict.²²

¹⁸ cf. Koslowski; Kratochwil, 'Understanding Change', fn.16, pp.217-219.

¹⁹ Waltz, *Theory*, fn.17, pp.38-59.

²⁰ Waltz, *Theory*, fn.17, pp.102-123.

²¹ Keohane, Robert O.: 'International Liberalism Reconsidered', in: Dunn, John (ed.): *The Economic Limits to Modern Politics*. Cambridge et al., 1990, pp.165-194, here esp. p.182f.

²² Keohane, 'Liberalism', fn.21, p.177f.

Hence European policy to keep links with Iran could be explained as pursuing Europe's economic interests and as a means to make Iran change domestic policies hampering its stance in the international community. This was reflected in the general perception of the 'critical dialogue' as a fig-leaf to pursue economic interests in Iran. Both theories are in general very similar, even though they come from very different angles of the scientific debate. Both paradigms see states as the core agents in the international system, these states pursue identifiable, rational interests, and with the possible use of military means there remains an ever present danger of conflict, in the neoliberal case however tamed by cooperation and institutionalisation.²³

But these concepts cannot explain why human rights have become a core determinant of foreign policy making. Their importance lies in the fact that they have had a great influence on the conceptualisation of policy both in the U.S. and in Europe.²⁴ The following constructivist approach integrates arguments of the traditional paradigms in a theory that takes the norms underlying the international system critically into account.

Norms in Foreign Policy: The 'Constructivist' Argument

The core argument of constructivist theory²⁵ is that norms shape the foreign policy of states.²⁶ Norms are developed in the interaction of different groups in domestic as well as in international society, and their increasing acceptance leads to change in the rules of international behaviour.²⁷ Hence the growing body of norms for the protection and promotion of human rights especially in the United Nations has caused a strong imperative for policy-makers to take human rights into account.²⁸

Constructivism makes three crucial theoretical assumptions that will help us here to understand why the European Union developed its human rights policy:

First, change in international society is not caused by the structure of the international system, but by the changing perception of norms underlying international relations. These norms develop in the interplay of societal groups and the political sphere. The set of rules and norms underlying a society determine the identity of a

²³ cf. Baldwin, David: 'Neoliberalism, Neorealism, and World Politics', in: Baldwin, David (ed.): *Neorealism and Neoliberalism; The Contemporary Debate*. New York, 1993, pp.3-25, here pp.4-8.

²⁴ cf. Hoffmann, Stanley: *Janus and Minerva; Essays in the Theory and Practice of International Politics*. Boulder (CO), London, 1987, pp.10-11.

²⁵ 'Constructivism' is still not developed as a cohesive theory. Some like Smith present it as 'constitutive' theory. Cf. Smith, 'The Self-Images', fn.17, p.26-28; Risse-Kappen, Thomas: 'Democratic Peace - Warlike Democracies? A Social Constructivist Interpretation of the Liberal Argument', *European Journal of International Relations*, vol.1, no.4, pp.491-517, here p.502; See also the references in fn.16.

²⁶ cf. Koslowski; Kratochwil, 'Understanding Change', fn.16, p.216, 223.

²⁷ A powerful example provides Robert Jackson's analysis of the norm of self-determination leading to the unacceptability and later the end of colonialism after World War II: *Quasi States; Sovereignty, International Relations, and the Third World*. Cambridge, 1990, p.83, 85, *passim*.

²⁸ Vincent, *Human Rights*, fn.1, p.130.

state or a certain political group and from that its international behaviour.²⁹ The interests of agents can thereby be altered and reformulated due to changing societal demands and priorities.³⁰ Hence the interest to protect what is perceived as national security or to promote perceived economic interests can vary tremendously, and it lies in the choice of the dominant agents in the foreign policy process to define these interests and their importance on the ground of societal norms.

Second, the focus on the intersocietal shaping of norms makes it inevitable to include the importance of individual actors in the analysis of policy-making. The choices of these political actors, shaped by their perceptions of international society, and reflected in their state's identity, determine the overall policy of a state.³¹ Most importantly: the change of political leadership can account for major shifts in both domestic and foreign policy, as the example of Michael Gorbachev demonstrated³².

Third, the prevalence of certain norms does not determine the outcome of policies, it can rather help us to understand how the perceptions of policy choices developed and why certain choices were preferred.³³ Thus constructivism is not a scientific approach to a perceived international system offering explanations about how states behave. It is rather stressing the importance of choices made by political agents giving us only permissive hints to understand international developments.³⁴

The question is now, what constructivism offers to a better understanding of human rights in the EU's foreign policy in general, and the 'critical dialogue' in particular.

First, if norms are the core influence in shaping foreign policies, it becomes obvious why the EU integrated human rights into their recently developed Common Foreign and Security Policy (CFSP). The Universal Declaration of Human Rights (UDHR) and the United Nations' Covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights, have become the universal basis of judgement about the behaviour of states in international bodies.³⁵ With the end of the Cold War it became apparent that the West had supported autocratic regimes to oppose communism. This policy became unsustainable amongst the continued charges of 'double standards' against Western governments by human rights groups and the domestic opposition.³⁶

²⁹ cf. Jepperson, Ronald L.; Wendt, Alexander; Katzenstein, Peter J.: 'Norms, Identity and Culture in National Security', in: Katzenstein, Peter J. (ed.): *The Culture of National Security; Norms and Identity in World Politics*. New York, Chichester, 1996, pp.33-75, here p.58; Koslowski; Kratochwil, 'Understanding Change', fn.16, p.216.

³⁰ cf. Weldes, Jutta: 'Constructing National Interests', *European Journal of International Relations*, vol.2, no.3, pp.275-318, here p.279f.

³¹ cf. Koslowski; Kratochwil, 'Understanding Change', fn.16, p.216; Risse-Kappen, 'Democratic Peace', fn.25, p.502.

³² This is the example discussed in Koslowski; Kratochwil, 'Understanding Change', fn.16, p.228-247.

³³ For the debate about 'explaining' and 'understanding' cf. Hollis, Martin; Smith, Steve: *Explaining and Understanding International Relations*, Oxford, 1990, esp. pp.1-15.

³⁴ cf. Koslowski; Kratochwil, 'Understanding Change', fn.16, p.216.

³⁵ cf. Donnelly, Jack: *The Concept of Human Rights*. London, New York, 1985, pp.1f.; pp.27ff.

³⁶ on the integration of human rights in Western policy-making cf. Sikkink, Kathryn: 'The Power of Principled Ideas: Human Rights Policies in the United States and Western Europe', in: Goldstein, Judith; Keohane, Robert O. (eds.): *Ideas and Foreign Policy; Beliefs, Institutions, and Political Change*. Ithaca, London, 1993, pp.139-170, here pp.154ff., 160-166.

Second, stressing that change in the international society is determined by intersocietal developments means that we have to look at both the domestic and the international level to understand aims and ideas in foreign policy. This is especially important in the case of the EU as an intergovernmental institution, where foreign policy is shaped both on the domestic level of member-states, in the intergovernmental cooperation in European institutions, and by developments in the international realm. Especially the European Parliament played an important role in pressuring the EU's Council of Ministers to integrate human rights into the development of the CFSP. Hence although the 'critical dialogue' was developed as a policy of shared concern in the Council of Ministers, we have to take a look at the discussions on the member-states level.

Third, the 'critical dialogue' represented an approach to diplomacy that does not make sense if only structures matter. The aim of the dialogue was to strengthen allegedly moderate politicians in Iran, thereby preventing a radicalization of the regime that was feared if Iran were isolated from the international community. Hence the EU took account of the internal situation in Iran instead of judging Iran only on the grounds of its alleged power-capabilities constituting a "threat" to the international system.³⁷

Keeping these theoretical assumptions in mind, we will now examine the basis on which the 'critical dialogue' was formulated: the European human rights policy.

III. Human Rights in European Foreign Policy

The European Union's Common Foreign and Security Policy (CFSP), formerly European Political Cooperation (EPC), has become the framework for European foreign policy. The CFSP is still weak and serves only as an umbrella for the largely independent foreign policy of the member-states. Yet since the Maastricht Treaty has defined its concrete aims, joint initiatives have increased, and the CFSP has become the second pillar of the EU's institutional framework.³⁸ As defined in the Maastricht Treaty (Article J) its core aims are: "to preserve peace and strengthen international security", "to promote international cooperation", and "to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms".³⁹

³⁷ cf. Indyk, 'Clinton Administration's Approach to the Middle East' fn.3, p.3, p.6.

³⁸ Regelsberger, Elfriede: 'Common Foreign and Security Policy', in: Weidenfeld, Werner; Wessels, Wolfgang: *Europe from A to Z; Guide to European Integration*. Luxembourg, 1997, pp.41-46, here p.41; For a general overview of the developing CFSP cf. respective articles by Elfriede Regelsberger: 'Gemeinsame Außen- und Sicherheitspolitik' (*Common Foreign and Security Policy*), in: Weidenfeld, Werner; Wessels, Wolfgang (eds.): *Jahrbuch der Europäischen Integration (Yearbook of European Integration)*, 1992/93ff.

³⁹ 'Memorandum to the Plenary Session of the 49th UN General Assembly', 27.9.1994, in: *European Foreign Policy Bulletin*, Doc. 94/228, 1994, vol.10, pp.312-322, here p.312.

Since the EU's role in the preservation of peace and security is still little developed and remains largely on a diplomatic bases, the promotion of international economic cooperation has become the major factor of European foreign policy. As far as the Middle East is concerned, the EU engages in the economic development in most countries and pursues to negotiate a free-trade-area in the Mediterranean⁴⁰ and a trade-agreement with the states of the Gulf Cooperation Council (GCC).⁴¹

While the promotion of democracy and human rights had mainly a diplomatic character in the former EPC, its role has increased steadily. The growing importance given to human rights must be seen in the light of the pressure from the European Parliament and human rights groups to take the dimension of human rights seriously and integrate those concerns in the CFSP.

The Integration of Human Rights since the 1980s

The EU's activity on human rights in its external relations has been limited, a coordinated human rights policy has only been apparent since the early 1990s.⁴² Yet since the introduction of the Single European Act (SEA), several documents defined the gradual incorporation of human rights into the EPC and later the CFSP.

In their first major 'Declaration on Human Rights' of 1986, the Foreign Ministers outlined the principles of human rights in the Community's external relations:

"respect for human rights is one of the cornerstones of European cooperation. (...) The protection of human rights is the legitimate and continuous duty of the world community and of nations individually. Expressions of concern at violations of such rights cannot be considered interference in the domestic affairs of a state."⁴³

Furthermore it was emphasised that human rights were "an important element in relations between third countries and the Europe of twelve" and that the Union would "continue to promote fundamental rights".

With the 'Declaration on Human Rights' in 1991 the EC acknowledged that

"tensions and conflicts arising from flagrant and systematic violations of human rights and fundamental freedoms in one country (...) are often a threat to international peace and security."⁴⁴

The Community declared to include "clauses on human rights in economic and cooperation agreements with third countries" to actively promote human rights.⁴⁵ The core

⁴⁰ cf. Jünemann, Annette: 'Die Mittelmeerpolitik der Europäischen Union; Demokratisierungsprogramme zwischen normativer Zielsetzung und realpolitischen Pragmatismus' (*The Mediterranean Policy of the EU*), in: *Frankreich-Jahrbuch 1997*, ed. by the Deutsch-Französisches Institut et al., Opladen, 1997, pp.93-115.

⁴¹ For European Middle East Policy cf. Hubel, Helmut: 'Die Nahost- und Mittelmeerpolitik' (*Middle East and Mediterranean Policy*), in: *Jahrbuch der Europäischen Integration 1994/95*, pp.247-252; Behrendt, Sven: 'Die Nahost- und Mittelmeerpolitik' (*Middle East and Mediterranean Policy*), in: *Ibid.*, 1995/96, pp.247-252, 1996/97, pp.253-258.

⁴² cf. *Human Rights and the European Union*, Internet-document at: helsinki.fi/va/lttdk/neusem/siponen/; 'The European Union and Human Rights in the World', *Bulletin of the European Union*, Supplement 3/95, Luxembourg, 1996.

⁴³ 'Declaration on Human Rights', 21.7.1986, *European Political Cooperation Bulletin (EPC-Bulletin)*, 1986, pp.57-58.

⁴⁴ 'Declaration Concerning Human Rights', 28/29 June 1991, in: *EPC-Bulletin*, Doc. 91/194, 1991, vol.7, Luxembourg, 1993, pp.322-324, here p.323.

⁴⁵ *ibid.*, p.324.

way to implement these aims was finally defined in the ‘Resolution on Human Rights, Democracy and Development’ of November 1991:

“The Community and its Member States will explicitly introduce the consideration of human rights as an element of their relations with developing countries; human rights clauses will be inserted in future co-operation agreements.”⁴⁶

The declaration stressed in particular that the Community would “give high priority to a positive approach” by keeping an “open and constructive dialogue” to promote human rights.⁴⁷ Accordingly, the EU pursues a ‘cooperative’ approach and objects economic sanctions as a measure to enforce human rights improvements.

With the enactment of the Maastricht Treaty on 1 November 1993 the CFSP became the institutional and legal framework for the EU’s external relations, explicitly stating the aim to promote “respect for human rights and fundamental freedoms.”⁴⁸

In summary, four core objectives of a European human rights policy emerged: First, promoting human rights constitutes an imperative grounded in the character of European cooperation itself; second, the EU considers respect for human rights as an element for any institutionalized political and economic cooperation with third countries; third, institutionalized economic cooperation and development-aid are subject to human rights conditionality; and finally, the promotion of human rights serves both international security and the improvement of economic cooperation.

Hence the EU is committed to promote human rights in its foreign policy, and the European Parliament can demand human rights measures on the grounds of the Treaty. The Barcelona Declaration, for example, that outlined the EU-cooperation in the Mediterranean demonstrates this importance given to human rights.⁴⁹ And the recent EU agreement on Arms Exports made the human rights situation in the recipient country a core criterion for the export of conventional arms.⁵⁰ The ‘critical dialogue’ is inseparably linked to this development of a human rights grounded European foreign policy.

Human Rights in European Foreign Policy Institutions

The major institutions concerned with human rights within the EU framework are the Council of Ministers, the European Commission and the European Parliament.⁵¹

⁴⁶ ‘Resolution of the Council and of the Member States Meeting in the Council on Human Rights, Democracy and Development’ (RHRDD), European Parliament, Committee on *Foreign Affairs* and Security, Subcommittee on Human Rights, PE 156.345, 26.2.1992, p.7.

⁴⁷ RHRDD, fn.46, p.3.

⁴⁸ Article J.1, Maastricht Treaty, quoted in: ‘Memorandum’, fn.39, p.312.

⁴⁹ cf. Text of Barcelona Declaration; Euro-Mediterranean Conference, Barcelona (27.-28.11.1995), EU Doc/95/7, 4.12.1995: The ‘preamble’ dedicates 7 of its 14 paragraphs to respect for human rights.

⁵⁰ ‘EU Code of Conduct on Arms Exports’, ‘2097th Council Meeting; General Affairs, Brussels, 25.5.1998, PRES/98/162.

⁵¹ ‘Human Rights and the European Union’, fn.42, p.8f. The Council of Europe is the most important human rights institution for EU member-states and the signatories of the European Convention of Human Rights, involving judicial power over all signatory states. Hence the EU’s policies discussed here could be interpreted as the external component of the European human rights regime applying to states outside the realm of the Council.

The strongest promoter for human rights in the Union's external relations is the European Parliament (EP). Its reports, resolutions, and the activities of the parliamentary committees had a strong focus on human rights ever since the Parliament was firstly elected in 1979. The EP can ask written questions on the conduct of the European Commission and is the major watchdog of the Union's policies. While its powers were traditionally weak, human rights have become one of the core issues by which the EP can exert pressure on both the Commission and the Council of Ministers. Since the European Single Act came into force in 1992, the EP can refuse the approval of EU-agreements with non-member states on the grounds of human rights concerns. Turkey, Syria, Morocco and Israel have already been affected by these restrictions.⁵² The EP played a crucial role in shaping European public opinion on relations with Iran by consistently questioning the Commission's policies and tabling critical resolutions.

The European Commission is less active on human rights issues. It is responsible for EU-relations with the UN and other international bodies concerned with human rights, and it is entitled to start its own, country-related initiatives. The Commission represents the EU at the UN Commission on Human Rights and has regularly sponsored resolutions condemning Iran's human rights abuses.

The Council of Ministers, composed by the representatives of the member state's governments, is the core institution shaping the EU's international relations. It has demonstrated increasing activity on human rights. The Council both initiated the 'critical dialogue', and, represented by the EU-Troika⁵³, led regular negotiations with Iran on human rights issues. Yet the Council has to weigh human rights concerns against the other aims of the CFSP, international security and economic cooperation. Hence human rights policies formulated in the CFSP sometimes have to give way to overriding security concerns that can make these policies appear inconsistent.

Promotion of Human Rights as Expression of European Identity

The integration of human rights into the CFSP and its institutions provides the normative framework to understand European human rights policy. In view of the increasing importance of human rights in European foreign policy, the promotion of human rights has become a core aspect of European identity.⁵⁴ The CFSP-measures must be interpreted in the light of these developments. In this context the formulation

⁵² cf. Hollis, Rosemary: 'Europe and the Middle East; Power by Stealth?' *International Affairs*, vol.73, no.1, 1997, pp.15-29, here p.19ff; Islam, Shada: 'No to Morocco and Syria', *Middle East International*, 24.1.1992, p.13.

⁵³ The Troika is composed of the President of the Council of Ministers and the preceding and succeeding Presidents.

⁵⁴ cf. Duparc, Christiane: *The European Community and Human Rights*, Commission of the European Communities, Luxembourg, 1992, p.25: "(...) the principles of representative democracy and respect for human rights have rapidly become one of the central strands of both European integration and the affirmation of Europe's identity throughout the world." Cf. also Wessels, Wolfgang: 'Europäische Identität aus politischer Sicht; Modeerscheinung, Mythos oder magische Legitimationsformel?' (*European Identity from a Political Perspective*), in: *Auf der Suche nach Europäischer Identität*, ed. by Wilhelm Hinrichsmeyer et al., Bonn, 1995, pp.101-122, here p.107f.

of the ‘critical dialogue’ can be understood as the institutionalization of the human rights-component in the EU’s policy towards Iran, reflecting a ‘positive approach’ of promoting human rights through dialogue.

But this approach is still a weak one, since its adoption depends on the *consensus* of all EU Member-States.⁵⁵ While the EU found a common policy towards Iran, it lacks e.g. a consistent policy on China⁵⁶ or on Saudi Arabia. Hence the EU remains open to charges of inconsistency and double standards. It will need a long time to agree on more than such a minimal-consensus policy. Yet one has to bear in mind that a weak but consistent multilateral policy is still preferable to the lack of any such policy.

It must be stressed too, that the member-states’ bilateral relations with Iran still play a significant role in determining the overall European policy. Yet the ‘critical dialogue’ was a common *European* human rights strategy towards Iran.

IV. The ‘Critical Dialogue’ with the Islamic Republic of Iran

The adoption of the ‘critical dialogue’ reflected two antagonistic trends: The emergence of the CFSP with its emphasis on human rights and the “hope” expressed by the Council of Ministers that Iran was about to normalize its relations with the West after the allegedly ‘pragmatic’ President Hashemi Rafsanjani⁵⁷ took office in 1989.⁵⁸ While the European Parliament strengthened its continuous criticism of Iran’s human rights abuses the EU aimed at closer economic and political cooperation with Iran. These developments increasingly conflicted with each other and made a new strategy necessary: the ‘critical dialogue’. It aimed at improving Iranian behaviour and in the long term re-integrating the country both regionally and internationally. The basis of this policy was the recognition that an important country like Iran could not and should not be ‘isolated’ in the region, yet it had to adhere to internationally accepted norms of behaviour before it could be accepted as a political and economic partner.⁵⁹

⁵⁵ Although CFSP action can be taken by majority-decisions (MD), there has been no practical use of MD so far. Cf. Regelsberger, ‘GASP 1994/95’, fn.38, p.219. The Amsterdam summit enhanced the basis for MDs, yet practical use has still to come. Cf. Regelsberger, ‘GASP 1996/97’, fn.38, p.222.

⁵⁶ In 1997 France, followed by Germany, Greece, Italy, and Spain did not support a joint EU-resolution condemning human rights abuses in China at the UNCHR. A motion presented by Denmark was squashed. Cf. ‘EU/Konklave: Van Mierlo Stigmatisiert Frankreichs Haltung zur Menschenrechtsfrage in China (*Van Mierlo Criticised France’s Stance on Human Rights in China*)’, *Agence Europe*, 7./8.4.1997, p.8. In 1998 the Council “expressed a strong interest in pursuing an intensified dialogue with China on human rights questions and in developing a common approach within the EU on this aspect of the relationship.” Hence, there is still no common approach. ‘2066th Council Meeting; General Affairs, Brussels’, 26.1.1998.

⁵⁷ Cf. Steinbach, Udo: Ali Akbar Haschemi Rafsandschani, Kurzbiographie (*Brief Biography*), *Orient*, vol.38, no.2, 1997, pp.221-223, here p.211, 220ff.

⁵⁸ For a general chronology of events, cf. the yearly articles by Rieck, Andreas: ‘Iran’, in: *Nahost-Jahrbuch; Politik, Wirtschaft und Gesellschaft in Nordafrika und dem Nahen und Mittleren Osten (Yearbook Near and Middle East; Politics, Economics and Society in Northern Africa and the Middle East)*, volumes 1987-1997, ed. by Deutsches Orient Institut; Thomas Koszinowski; Hanspeter Mattes, Opladen, 1988-1998. (quoted as: *Nahost-Jahrbuch*)

⁵⁹ cf. ‘Iran-Politik der Bundesregierung; Antwort der Bundesregierung auf die Große Anfrage’ (*Iran-Policy of the Federal Government; Answer of the Federal Government to the ‘Major Parliamentary Question’*). Deutscher Bundestag, Drucksache 13/3483, 16.01.1996, p.2.

The Historical Context

It is usually claimed that the ‘critical dialogue’ grew out of a special German-Iranian relationship and out of German interest in improving economic relations with Iran⁶⁰. The argument derives from the insistence of the German government to keep up a political dialogue with the Iranian regime after the Iranian Revolution.⁶¹ Foreign Secretary Hans-Dietrich Genscher was the first Western official to visit Tehran after the Revolution in 1984, and he was also the first Western official publicly blaming Iraq for attacking Iran in 1987, a major step in promoting Iran’s acceptance of UN-resolution 598 that brought an end to the Gulf-War. Iran’s acceptance was interpreted as a major success *inter alia* of German diplomatic efforts.⁶² In March 1988 an unprecedented joint German-Iranian colloquium took place in Hamburg to discuss mutual problems, a first step to enhance cultural and academic contacts later continued in the *Human Rights-Seminars* in Hamburg and Tehran discussed below.⁶³ Genscher visited Iran again in November 1988 and a German-Iranian cultural agreement was signed. But the agreement was declared invalid as a consequence of the *fatwa* against Salman Rushdie that provoked an unexpectedly harsh German critique.⁶⁴ Although German-Iranian relations anticipated some aspects of the ‘critical dialogue’, German foreign policy was increasingly embedded into the EPC and later the CFSP. Thus, the ‘dialogue’ was transformed into a joint European policy.

The *European* adoption of the ‘critical dialogue’ corresponded with the newly emerging human rights policy discussed above, and the European interest to integrate Iran politically and economically in the region.

Three regional developments account for the new ‘positive’ approach towards Iran. First, Ayatollah Khomeini’s death in 1988 and Rafsanjani’s accession as President of the Islamic Republic was perceived to end the revolutionary period in Iran. Anoushiravan Ehteshami coined the term “Second Republic” arguing that Iran had become “an ordinary state” of the international community.⁶⁵ This perception was underscored by the Iranian tolerance of the military operation against Iraq’s occupation of Kuwait, interpreted as a major step towards a ‘pragmatic’ Iranian

⁶⁰ Behrendt, ‘Nahost- und Mittelmeerpolitik’, fn.41, p.257; Heinrich, ‘Kritik des ‘Kritischen Dialogs’’, fn.13, p.541.

⁶¹ cf. Steinbach, Udo: ‘Ist der Iran das Reich des Bösen? Die Vereinigten Staaten und Europa streiten über die Politik gegenüber Teheran’ (*Iran, the Empire of Evil? The U.S. and Europe Argue over their Policies Towards Tehran*), *Der Überblick*, no.2, 1996, pp.30-32; and ‘Iran-Politik der Bundesregierung’, fn.59, p.6.

⁶² cf. Steinbach, Udo: ‘Iran 1987’, *Nahost-Jahrbuch 1987*, fn.58, pp.79-88, here p.84f.; Steinbach, Udo; Alkazaz, Aziz: ‘Die Beziehungen der Bundesrepublik Deutschland - Nahost 1988’ (*German Relations with the Middle East*), *Nahost-Jahrbuch 1988*, fn.58, pp.13-18, here p.16.

⁶³ documented in Persian and German as: *Deutsch-Iranisches Kolloquium; Religion und Gesellschaft, Wirtschaft und Politik, bilaterale Beziehungen (German-Iranian Colloquium; Religion and Society, Economy and Politics, Bilateral Relations)*, summarized by Peter Heine, Hamburg, 28.-30 March 1988, Hamburg, 1989.

⁶⁴ cf. Steinbach, Udo; Alkazaz, Aziz: ‘Die Beziehungen der Bundesrepublik Deutschland - Nahost 1989’ (*German Relations with the Middle East*), *Nahost-Jahrbuch 1989*, fn.58, pp.13-18, here p.16: The German Parliament condemned the *fatwa* as a declaration of war against the Western system of law and norms and against international law.

⁶⁵ Ehteshami, Anoushiravan: *After Khomeini; The Iranian Second Republic*. London, New York, 1995, pp.xivf.

foreign policy.⁶⁶ During the conflict the European Union lifted its economic sanctions against Iran in October 1990 and declared the “normalization” of relations with the Islamic Republic.⁶⁷

Second, Iran had helped to release Western hostages in Lebanon, who’s allegedly Iran-supported captives had been a core obstacle to better relations. The last hostages were freed in December 1991 removing this major impediment to *rapprochement*.⁶⁸

Third, the UN Special Representative on Human Rights (UNSR) was allowed to visit Iran for the first time. The Council interpreted this as an Iranian step towards greater respect of the international human rights norms enshrined in the UN Charter.⁶⁹

These developments led to an overall ‘positive’ Western attitude towards Iran, expressed in its most optimistic form in a report to the European Commission on European relations with the Middle East.⁷⁰ Its main proposals in respect to Iran were: political and economic integration of Iran into the international community to “assist its economic reconstruction” and “strengthen the hand of the pragmatic wing of the regime”; to “negotiate a free trade agreement between the EC and Iran”; and to “advocate (...) the liberalization of trade between the GCC and Iran”.⁷¹ Respect for human rights was also promoted in the report, yet focused mainly on Iraq.⁷² Accordingly, the European Commission had several negotiations in 1992 to prepare a trade-agreement with Iran. These negotiations ended, however, mainly due to differences on a “proposal for an agreement on human rights.”⁷³

On the other hand the European Union supported efforts after Gulf War II to create a system of regional security in the Gulf that *included* Iran⁷⁴, mainly to secure the oil-supply for Western Europe.⁷⁵ But the negotiations for such an agreement failed with

⁶⁶ Hashim, Ahmed: *The Crisis of the Iranian State; Domestic, Foreign and Security Policies in Post-Khomeini Iran*. ADELPHI Paper 296. London, 1995, p.36ff.; Ehteshami, *After Khomeini*, fn.65, p.152f.

⁶⁷ cf. Hashim, *Crisis*, fn.66, p.37; ‘Joint Communiqué of the European Community, its Member States and the Cooperation Council for the Arab States of the Gulf (GCC) and its Member States’, *EPC Press Release*, New York, 27.9.1990, P73/90, §3; Answer to Questions No H-1228/90, No H-1229/90, No H-1240/90 and No H 1257/90 concerning Iran and Human Rights, 12.12.1990, *EPC-Bulletin*, Doc. 90/457, pp.506-507, here p.507.

⁶⁸ Ehteshami, *After Khomeini*, fn.65, p.163.

⁶⁹ ‘Statement at the 49th Session of the Commission on Human Rights’, 1.3.1993, *EPC-Bulletin*, Doc.93/079, p.147.

⁷⁰ Nonneman, Gerd (ed.): *The Middle East and Europe; The Search for Stability and Integration*. London, ²1993.

⁷¹ ‘Conclusions and Policy Recommendations’, in: Nonneman, *Middle East*, fn.70, pp.259-276, here p.266.

⁷² cf. Mallat, Chibli: ‘Human Rights in the Middle East’, in: Nonneman, *Middle East*, fn.70, pp.245-249.

⁷³ *Agence Europe* reported that the Council of Ministers had renounced a discussion on future relations with Iran without giving reasons. *Agence Europe*, no.5748, 12.6.1992, p.7 (Translation M.S.); cf. also Kommission der Europäischen Gemeinschaften (ed.): *26. Gesamtbericht über die Tätigkeit der EG 1992 (Report on the Activity of the EC)*, Luxembourg, 1993, p.300, §858, stating that the Commission held talks on a potential cooperation agreement.

⁷⁴ On the EU’s promotion of regional security cooperation in the Gulf, cf. Hollis, Rosemary: ‘Europe and Gulf Security; A Competitive Business’, paper presented at the ECSSR Conference, *Gulf Security in the 21st Century*, 6.-8.1.1996, p.3f.; Steinbach, Udo: ‘Ein neues Sicherheitssystem für den Golf’ (*A New Security System for the Gulf*), *Internationale Politik*, vol.50, no.3, March 1995, pp.33-40. On the dim prospects for security co-operation in the Gulf cf. Chubin, Sharam: ‘Iran and Regional Security in the Persian Gulf’, *Survival*, vol.34, no.3, Autumn 1992, pp.62-80.

⁷⁵ cf. ‘Improving Relations Between the European Union and the Countries of the Gulf Cooperation Council (GCC)’, Commission of the European Communities, COM/95/541, Brussels, 22.11.1995, p.2.

the United States becoming a hegemonial power providing for Gulf security through bilateral agreements with GCC-states.⁷⁶

Despite the overall optimism, however, Iranian policies were still not as 'pragmatic' as perceived. Iranian domestic and foreign policies were determined by an internal power-struggle between 'radicals' and 'pragmatists'⁷⁷, and the radical factions consistently thwarted moves towards normalization with the West.⁷⁸

Among the developments leading to the 'critical dialogue', six are of special importance. First and foremost, Iran's domestic human rights abuses did continue since Rafsanjani was unable to control the radicals. Especially the re-emergence of bash-squads against 'insufficiently' veiled women and the persecution of the Baha'i minority were severely criticised in Europe.⁷⁹

Second, despite some weak declarations, the *fatwa* against Salman Rushdie was reaffirmed and Rafsanjani seemed unable to counter the Bonyad-e Panzdeh Khordad, a private organization promising a bounty of \$1 million for Rushdie's murder.⁸⁰ The British Foreign Office in particular refused to normalize ties with Iran under these circumstances.⁸¹ And the German Parliament passed a motion calling on the government to hold the Iranian leadership directly responsible for any harm inflicted on Rushdie.⁸²

Third, both in Germany and France assassinations of Iranian dissidents were blamed on the Iranian secret service, and domestic pressure in both countries intensified to investigate these claims. In September 1992 the murder of three Iranian-Kurdish opposition leaders, among them the head of the Kurdish Democratic Party of Iran Sadiq Sharafkandi, and an interpreter in the *Mykonos* Restaurant in Berlin was quickly linked to Iran.⁸³ Evidence for this link led to the suspension of the dialogue in 1997.

⁷⁶ cf. Steinbach, 'Sicherheitssystem für den Golf', fn.74, p.33f.

⁷⁷ For a discussion of the 'pragmatic'/'radical' divide cf. Ramazani, R. K.: Iran's Foreign Policy: Contending Orientations, in: *Middle East Journal*, vol.43, no.2, Spring 1989, pp.202-217, here pp.210-214; Cf. also the quarterly *Iran-Report* of the Economist Intelligence Unit focusing consistently on the internal power struggle in Iran.

⁷⁸ For a more detailed discussion cf. Halliday, Fred: 'An Elusive Normalization; Western Europe and the Iranian Revolution', *Middle East Journal*, vol.48, no.2, Spring 1994, pp.309-326.

⁷⁹ cf. 'One too many ; Iran in a mess', *The Economist*, vol.327, 1.5.1993. For the continuous European critique cf. the numerous written and oral questions in the European Parliament on human rights in Iran in the bibliography.

⁸⁰ cf. Kramer, Martin: 'The Global Village of Islam', in: Ayalon, Ami (ed.): *Middle East Contemporary Survey*, vol.166, 1992. Boulder et al., 1995, pp.193-226, here p.208f. Rushdie had kept a low profile in 1991 but in 1992 toured Western countries to promote his case and ask for pressure on Iran. In November the bounty on his murder was doubled. Cf. 'Reward increased for Rushdie's death', *Financial Times*, 3.11.1992, p.1.

⁸¹ cf. Mauthner, Robert: 'Britain protests over Rushdie death call', *Financial Times*, 13.11.1992, p.4.

⁸² cf. 'Germany reportedly says Iran will be held responsible for Rushdie's fate', *BBC Summary of World Broadcasts (BBC SWB)*; Part 4, The Middle East, ME/1564, A/3, 15.12.1992.

⁸³ cf. Rieck, 'Iran 1992', *Nahost-Jahrbuch 1992*, fn.58, pp.78-85, here p.81. The Iranian Kazem Darabi and the Lebanese Abbas Rhayel and Joussef Amin were arrested in October 1992 and charged with murder in March 1993 by the federal prosecutor, The Iranian Security Service is mentioned to have ordered the assassinations. For a chronology of the trial cf. 'Vom Attentat bis zum Richterspruch' (From the Attack to the Verdict), *Die Welt*, 11.4.1997.

Fourth, the annexation of the Abu Musa and Tunb islands in the Gulf by Iran caused friction with the Gulf states and severely hampered Iranian prospects to enter into an integrated regional security arrangement.⁸⁴

Fifth, the fierce Iranian opposition to the Arab-Israeli Peace-Process and the support for *Hamas* directly contradicted the intensified EC-support for a peaceful settlement. *Hamas* opened an office in Tehran in 1992 and in October a *Hamas* delegation was invited to Tehran meeting both the religious leader Ayatollah Sayyid Ali Khamene'i and the Minister of Foreign Affairs Ali Akbar Velayati.⁸⁵

Sixth, allegations emerged that Iran was attempting to construct nuclear weapons and was refitting its army with offensive conventional weaponry. The CIA estimated that Iran would be able to construct nuclear weapons until the year 2000. Iran argued that its nuclear programme was subject to regular inspections by the International Atomic Energy Agency (IAEA) who had found no evidence for the report.⁸⁶

These developments contradicted European principles of respect for human rights and international security enshrined in the CFSP. The normalisation of relations with Iran became inconceivable - at least for the time being.⁸⁷ Hence the 'critical dialogue' was declared to change Iranian policies to respect international norms. The policy was not altruistic. European interests in Gulf stability and trade always underlay this policy. But for the first time the EU took human rights as a priority in its relations with Iran, making improvements a precondition for closer ties and mutual trust.⁸⁸

The Concept of the 'Critical Dialogue'

The 'critical dialogue' was announced at the European Council (the meeting of the Council of Ministers) in Edinburgh in December 1992. It reflected both the conviction that Iran was too important to be regionally isolated and the deep concerns about its domestic and foreign policies:

"Given Iran's importance in the region, the European Council reaffirms its belief that a dialogue should be maintained with the Iranian Government. This should be a critical dialogue which reflects concern about Iranian behaviour and calls for improvement in a number of areas, particularly human rights, the death sentence pronounced by a *Fatwa* of Ayatollah Khomeini against the author Salman Rushdie, which is contrary to international law, and terrorism. Improvement in these areas will be important in determining the extent to which closer relations and confidence can be developed."⁸⁹

⁸⁴ Some argued, however, that the incident did not impair relations with the Gulf states, cf. Kostiner, Joseph: 'The Search for Gulf Security; The Politics of Collective Defense', in: *Middle East Contemporary Survey (MECS)*, vol.166, 1992. Boulder et al., 1995, pp.227-242, here p.235f.

⁸⁵ cf. Kramer, Martin: 'The Global Village of Islam', in: *MECS*, fn.84, pp.193-226, here p.204f.

⁸⁶ cf. Rieck, 'Iran 1992', *Nahost-Jahrbuch 1992*, fn.58, pp.78-85, here p.80.

⁸⁷ cf. Halliday, 'Elusive Normalization', fn.78, p.326.

⁸⁸ cf. Regelsberger, 'GASP 1992/93', fn.38, p.226.

⁸⁹ 'European Council in Edinburgh', fn.2, §15.

Additionally, the Council expressed concern about “Iran’s arms procurement” and the “wish that Iran will take a constructive approach” to the Arab-Israeli Peace Process.⁹⁰ While Iran interpreted the statement as signifying “disparate views” between those closer to the U.S. (i.e. Britain) and those preferring a positive attitude on Iran⁹¹, the declaration in fact represented the first unified and consistent European policy towards Iran that held strong for five years.

In the context of European foreign policy, calling a dialogue with a third country ‘critical’ can be interpreted as special form of the institutionalized ‘political dialogue’ that the EU had established with several countries and organizations.⁹² Since Euro-Iranian relations lacked the preconditions to establish a proper ‘political dialogue’, the unprecedented form of ‘critical dialogue’ was chosen, clearly suggesting the prospect of being translated into a ‘political dialogue’ once Iran adhered to international norms.

Five major principles of the ‘critical dialogue’ can be identified:

First, the EU was determined to apply a *multilateral* policy towards Iran respecting the measures agreed by the United Nations to oppose states breaking international law.⁹³ Since the UN did not apply sanctions or even military steps against Iran, the EU stuck to the ‘civil’ measure of diplomatic engagement.

Second, the EU’s policy aimed at strengthening allegedly ‘moderate’ politicians in Iran. Hence the EU took account of the internal factionalism, trying to weaken ‘radicals’ who opposed *rapprochement* and supported a ‘revolutionary’ foreign policy.

Third, the EU respected the fact that Iran was inspected regularly by the IAEA who did not find evidence for nuclear armament in Iran. The EU refrained from punishing Iran simply on the *allegation* that it pursued a policy of nuclear armament.⁹⁴

Fourth, the European Union stressed that Iran was signatory to both the Universal Declaration of Human Rights and the Covenant of Civil and Political Rights and that it had the duty to act according to the principles the government had signed up to.⁹⁵

And finally and most importantly, the EU emphasized again and again that the only possibility to achieve changes in the Iranian behaviour was to *communicate* European concerns rather than to ‘bully’ Iran. As the German government emphasised,

⁹⁰ ‘European Council in Edinburgh’, fn.2, §16 and §17.

⁹¹ cf. ‘Tehran Radio Comments on EC Leaders’, *BBC SWB*; Part 4, ME/1564, A/2, 15.12.1992.

⁹² on ‘political dialogue’ cf. Monar, Jörg: ‘Political Dialogue with Third Countries and Regional Political Groupings; The Fifteen as an Attractive Interlocutor’, in: Regelsberger, Elfriede; Schoutheete de Tervarent, Philippe de; Wessels, Wolfgang (eds.): *Foreign Policy of the European Union; From EPC to CFSP and Beyond*, London, 1997, pp.263-274.

⁹³ cf. statement of Commissioner van Miert, in: *Debates of the European Parliament*, No 4-482/279.

⁹⁴ cf. European Parliament, Written Question No 2170/92 to European Political Cooperation (1 September 1992), *Official Journal* No. C 58, 1993, Item 56 (93/C 58/56). Subject: Report to the Republican members of the US Congress House of Representatives alleging that Iran has nuclear weapons. Internal reports by the German foreign ministry, however, expressed grave concern about the danger of the Iranian quest for nuclear armament.

⁹⁵ cf. European Parliament, Written Question No 3057/92 to the Commission of the European Communities (14 December 1992), *Official Journal* No. C 106, 1993, Item 64; (93/C 106/64). Subject: Baha’i community in Iran.

“convincing” Iranian politicians through a “gradual process of long-term persuasion” was the essence of the ‘critical dialogue’.⁹⁶

Implementation of the ‘Critical Dialogue’

The ‘critical dialogue’ involved both measures on the European and on the member-state level. The discussion of the multifaceted implementation of the dialogue will be reduced to the most important steps taken.

The general way to communicate EU-concerns on the Council of Ministers’ level were confidential *démarches*, public *declarations*, and regular meetings of the EU-Troika with Iranian officials.⁹⁷ The European Commission also regularly criticised Iranian human rights abuses in its meetings with Iranian officials. And the European Parliament ‘checked’ both the Council’s and the Commission’s measures by continuously tabling human rights resolutions condemning Iran and asking critical questions in Parliament to hold up the awareness of the situation in the Islamic Republic.⁹⁸

Since 1985 the European Commission had sponsored resolutions in the UN Commission on Human Rights and the UN General Assembly to condemn Iranian human rights abuses. This remained the core multilateral effort of public critique. Continuous pressure was exerted on the Iranian regime to allow visits of the United Nations Special Representative (UNSR) since Iran had refused him access from 1993 onwards.⁹⁹ On the specific charges against Iran, consistent efforts were made to persuade Iran to adhere to internationally accepted norms.

In the case of the *fatwa* against Salman Rushdie, the emphasis lay on raising the international awareness for the author and on reaching a *written* assurance from Iran not to pursue any attempt to kill the writer. In December 1993 Commissioner Hans van den Broek met Rushdie and made clear that

“improvements in human rights and the lifting of the fatwa against Salman Rushdie” as well as “respect for fundamental human rights and international law remain essential for the development of closer relations with Iran.”¹⁰⁰

In 1994 Rushdie met the EU-Troika and the awareness of his fate was raised by numerous meetings with state-officials all over Europe. Under the French presidency

⁹⁶ ‘Ergebnisse des ‘kritischen Dialogs’ mit dem Iran über Menschenrechtsfragen; Antwort der Bundesregierung auf die Kleine Anfrage’ (*Results of the ‘critical dialogue’ with Iran on the matter of human rights*). Deutscher Bundestag, Drucksache 13/3485, 16.01.1996, p.4 (Translation M.S.).

⁹⁷ cf. European Parliament, Oral Questions No H-519/93 on security of Iranian political refugees and exiles in Community countries, H-535/93 on the violation of Security Council Resolution 598 by Iran, H.537/93 on Iran’s foreign debt crises, H-557/93 on the brutal suppression of unrest in Iran, 26.5.1993, *EPC-Bulletin*, 1993, Doc.93/216, pp.273-277, here p.216f. Meetings of the Troika took place twice a year on the level of ministers of state. *Démarches* were sent to pressure Iran to change the death-penalty against a Jewish Iranian in Spring 1995. Cf. ‘Ergebnisse des ‘kritischen Dialogs’’, fn.96, p.2, p.3.

⁹⁸ An extensive list of resolutions and written questions is given in the bibliography.

⁹⁹ cf. ‘Statement at the 50th Session of the Commission on Human Rights’, 2-3.1994, *EFP Bulletin*, Doc.94/084, 1994, pp.132-144, here p.140.

¹⁰⁰ ‘Mr. van den Broek Meets Salman Rushdie’, *Press Releases and Declarations*, 9.12.1993, IP/93/1080.

the *fatwa* was again condemned¹⁰¹ and an initiative taken to negotiate a *written* Iranian assurance not to pursue the *fatwa*. The Troika failed to reach such an agreement, provoking growing distrust in the strength of the ‘pragmatist’ faction in Iranian policy.¹⁰²

The British government still regards such a statement as a precondition to improve relations.¹⁰³ With the ‘Mykonos’-trial reaching its height in Autumn 1996, the EU issued the strongest statement so far condemning the *fatwa* and calling on Rafsanjani “to take appropriate steps against any initiative that might endanger ongoing efforts to reach a solution.”¹⁰⁴ After the suspension of the ‘critical dialogue’ the *fatwa* was condemned in February 1998, albeit recognising the “new Iranian Government’s stated commitment to respect the rule of law” hoping that “this will take us towards the assurances that we need to remove the threat to Salman Rushdie’s life.”¹⁰⁵ The declaration was firmly underscored by the British Foreign Secretary Robin Cook who met Salman Rushdie on the day of the issuing, demanding both a “written assurance” by the Iranian government “not to do anything to further the *fatwah*” and an effort to remove the bounty placed on Rushdie’s head by the 15 Khordad foundation.¹⁰⁶

Concerning the alleged Iranian support for international ‘terrorism’, little was done publicly since the EU claimed it had no concrete evidence to support allegations that Iran directly sponsored terrorist acts.¹⁰⁷ Yet after a series of suicide bombings in Israel in 1996 the EU came under intensified internal and external pressure to justify its dialogue with Iran despite alleged Iranian support for *Hizballah* and *Hamas*.¹⁰⁸ The Troika sent a mission to Iran (and Libya/Syria), to persuade these countries to disassociate itself from terrorism.¹⁰⁹ Due to this pressure, President Rafsanjani declared for the first time that Iran distanced itself from the attacks against Israel

¹⁰¹ ‘Declaration by the Presidency on behalf of the European Union on the Sixth Anniversary of the Iranian *Fatwa* against Salman Rushdie’, 13.2.1995, PESC/95/18.

¹⁰² Rieck, ‘Iran 1995’, *Nahost-Jahrbuch 1995*, fn.58, pp.80-87, here p.83.

¹⁰³ It is beyond the scope of this work to analyse whether such a statement could be attained. For a discussion of the issue cf. Fred Halliday who argues that the *fatwa* had been a *political* rather than *theological* edict that could be lifted “tomorrow”. The Iranian leadership’s refusal to do so is “a matter of politics, not theological necessity.” Halliday, Fred: *The Fundamental Lesson of the Fatwa*, *New Statesman and Society*, 12 February 1993, pp.16-19, here p.16, 17.

¹⁰⁴ ‘Declaration by the Presidency on behalf of the European Union on the eight Anniversary of the Iranian *Fatwa* against Salman Rushdie’, Brussels, 13.2.1997, PESC/97/12.

¹⁰⁵ ‘Declaration by the Presidency on behalf of the European Union on the Ninth Anniversary of the Iranian *Fatwa* against Salman Rushdie’, 16.2.1998.

¹⁰⁶ ‘Foreign Secretary Meets With Salman Rushdie’, Transcript of Doorstep by the Foreign Secretary, Mr. Robin Cook, and Mr. Salman Rushdie, London, 16.2.1998; ‘Foreign Secretary’s Statement on Salman Rushdie’, 16.2.1998. Prime Minister Tony Blair also met Rushdie on the day of the ninth anniversary of the *fatwa*’s declaration.

¹⁰⁷ cf. ‘France Denounces Imposition of US Sanctions on European Firms’, *Summary of World Broadcasts*, 5.8.1996.

¹⁰⁸ The British Foreign Secretary made continued British support for the dialogue dependent on the Iranian reaction to the European demands. cf. ‘EU Troika Mission to Iran; Extract from a Press Conference by the Foreign Secretary, Mr. Malcolm Rifkind at Informal EU Foreign Ministers’ Meeting’, Palermo, 10.3.1996.

¹⁰⁹ In a ‘Statement on Terrorism’ the EU expressed its concern about the “irresponsible declarations made in Iran about the bombings in Israel” and declared a continuation of the ‘critical dialogue’ depended on progress in the Iranian stance on terrorism and the Peace Process. ‘Excerpts of EU Statement on Terrorism’, *Reuters*, 10.3.1996.

saying that Iran “opposes terrorism regardless of its perpetrators, even if it is committed by *Ham*as.”¹¹⁰ Iran also notably reduced support for *Hizballah*, yet it still defended its support for the opposition to the Israeli occupation of Lebanon as legitimate.¹¹¹

With regard to the assassinations of Iranian dissidents abroad, Gary Sick noted that apart from the killing of a former Iranian diplomat and opposition leader in Rome in March 1993 there have been no documented cases of further Iranian assassinations in Europe.¹¹² Whether this development was influenced by European pressure in the framework of the ‘critical dialogue’ lacks evidence. As we will discuss below, France tried to avoid trials against Iranian diplomats on these charges.

It was only in November 1996 during the ongoing ‘Mykonos’-trial in Berlin that the EU openly condemned threats voiced in Iran against German nationals.¹¹³ Demonstrators in Iran had called for a *fatwa* against the German federal prosecutor who had directly charged the Iranian leadership with ordering the assassinations.¹¹⁴

On 10 April 1997 the Council of Ministers acknowledged that a German court had found the direct involvement of the Iranian authorities in the killings and condemned this as “totally unacceptable in the conduct of international affairs.” The constructive relationship with Iran could make “no progress (...) while Iran flouts international norms, and indulges in acts of terrorism.”¹¹⁵ Accordingly, the European ambassadors were recalled from Iran and the ‘critical dialogue’ was suspended.

In April the Council of Ministers reiterated the declaration calling on Iran to abide “by its commitments under international agreements, including those concerning the non-proliferation of weapons of mass destruction, as well as those concerning human rights.”¹¹⁶

The European reaction to the *Mykonos*-verdict demonstrated that the EU was only ready to act when concrete evidence was produced that Iran had committed an act of violence. The same conduct was applied to Iran’s alleged quest for nuclear armament. As long as the IAEA found no hints in Iran for the construction of nuclear weapons, the EU dismissed American concerns as unfounded.¹¹⁷ Yet one has to bear in mind

¹¹⁰ ‘Rafsanjani: We Support the Palestinian Struggle but We Reject any Terrorist Act’, *Al Hayat*, 12.3.1996, quoted in: Gerges; Fawaz A.: ‘Washington’s Misguided Iran Policy’, *Survival*, vol.38, no.4, Winter 1996-97, p.10.

¹¹¹ cf. Gerges, *ib.*, p.10f.

¹¹² Sick, Gary: ‘Rethinking Dual Containment’, *Survival*, Spring 1998, pp.5-32, here p.13.

¹¹³ ‘Declaration by the Presidency on behalf of the European Union on EU-Iranian Relations’, 25.11.1996, PESC/96/104. The federal prosecutor had charged President Rafsanjani and the Spiritual Leader Khamene’i with ordering the murder, followed by demonstrations at the German embassy in Tehran and death-threats against the prosecutors. Cf. ‘Trial Points Up Germany’s Unconventional Iran Ties’, *Los Angeles Times*, 25.1.1997, p.A1.

¹¹⁴ cf. ‘German Foreign Minister admits ‘difficult situation’ with Iran’, *Summary of World Broadcasts*, 18.11.1996. In a letter to Rafsanjani the German Chancellor Helmut Kohl managed to calm down the situation. Cf. ‘Letter by Federal Chancellor Dr. Helmut Kohl sent to the President of the Islamic Republic of Iran, Mr. Hojatolislam Akbar Hashemi Rafsanjani’ (Unofficial English Translation). Press and Information Office of the Federal Government, 21 November 1996.

¹¹⁵ ‘Declaration by the Presidency on behalf of the European Union on Iran’, Brussels, 10.4.1997, PESC/97/32.

¹¹⁶ ‘Declaration on Iran’, fn.7.

¹¹⁷ cf. European Parliament, Written Question No 2170/92, fn.94.

that most of the measures taken by the EU were confidential and it can be assumed that the Union's representatives used their contacts to exert pressure.

On the member-state level, various bilateral initiatives were taken under the heading of the 'critical dialogue', yet it would lead too far to assess those in detail.

Most notably, the German government organized two 'Human Rights Seminars' with Iran in which experts discussed openly conceptions of human rights and European concerns about repression in Iran.¹¹⁸ The sessions brought together international lawyers and human rights experts and were designed to foster understanding about Western and Islamic perceptions of human rights. They were also used to express concerns on human rights abuses and to demand concrete improvements. Yet while the 1992 seminar took place in an 'open' atmosphere and included 'liberal' thinkers like Abdelkarim Soroush, the Teheran-meeting in 1994 was characterized by antagonism signalling a setback on the way to reconciliation.

As the only EU member-state Denmark decided in August 1996 to end the 'critical dialogue' with Iran on bilateral basis. Though it kept up the dialogue on the European level, the Danish Foreign Secretary declared that the policy "had shown no results" and that "it did not make sense to talk to [the Iranians]".¹¹⁹ Instead the Danish Parliament passed a motion calling on the government to start talks with Iranian opposition groups.¹²⁰ These talks took place several times, yet a ministry's official said that the expatriate opposition was highly divided making a dialogue very difficult.¹²¹

V. Evaluation of the 'Critical Dialogue'

A policy of persuasive diplomacy such as the 'critical dialogue' is not likely to produce tangible results. The confidentiality of the *démarches* and details of ministerial meetings leaves the proper evaluation of such policies to historians. Yet diplomatic confidentiality becomes problematic if a democratic society charges its politicians with hypocrisy and demands explanations for its foreign policy.

The 'critical dialogue', against all odds, achieved changes in Iranian behaviour. The core issues of the dialogue: human rights, the *fatwa* against Rushdie, terrorism, opposition to the Peace Process, and proliferation deserve scrutinizing. Most importantly, one should look at the possible influence of the dialogue on the election of President Muhammed Khatami, though it will be difficult to assess.

¹¹⁸ impressingly documented in: Bielefeldt, Heiner: 'Die Menschenrechte zwischen Universalitätsanspruch und kultureller Bedingtheit; 22.-24.9.1992 in Hamburg' (*Human Rights Between Universality and Cultural Determinism; On the Third Human Rights-Seminar in Hamburg*), *Orient*, vol.33, no.3, 1992, pp.367-374.; Bielefeldt, Heiner: 'Auseinandersetzung um die Menschenrechte. Zum vierten deutsch-iranischen Menschenrechtsseminar; 8.-10.11.1994 in Teheran' (*Debate on Human Rights; On the fourth German-Iranian Human Rights-Seminar in Teheran*), *Orient*, vol.36, no.1, 1995, pp.19-27.

¹¹⁹ "Ein Dialog ohne Ergebnis" (*A Dialogue without Results*), *Die Zeit*, no.36, 30.8.1996, p.5.

¹²⁰ Timmerman, Kenneth R.: 'Denmark Takes the Lead on Iran', *Wall Street Journal Europe*, 27.11.1996.

¹²¹ Telephone-Interview with Henriette Rald of the Danish Ministry of *Foreign Affairs*, Copenhagen, 9.9.1997.

Impact on Iran's Domestic Human Rights Conduct

It is difficult to do justice to the changes in the human rights situation in Iran, especially due to the lack of information. Yet the reports of the UN Special Representatives on Human Rights (UNSR) provide a basis on which judgements can be made.

In general, the human rights situation in Iran gives reason to serious concern, and the grave violations specified in the 1992 report of the UNSR continue:

“excessive use of the death penalty; lack of guarantees of due process of law; discriminations against citizens because of religious beliefs, specifically the Baha'is; and the absence of independent associations and a climate of legal certainty and guarantees for the expression of the literary and artistic thought and creativity.”¹²²

While in 1990 the UNSR Galindo Pohl could announce some improvements in Iran's cooperation with the UN ¹²³, until 1996 no major changes in the domestic human rights conduct were observed. From 1992 to April 1996 Iran refused to let the UNSR into the country despite massive critique from the European Union.

Yet Iran began slowly to set up institutions reflecting at least an awareness that the continuous international criticism had to be answered. In 1992, prior to the beginning of the dialogue, the Foreign Ministry appointed a representative on human rights, in 1993 the Majlis set up a 'Committee on Human Rights', in May 1995 the 'Islamic Human Rights Commission' (ICHR) was founded¹²⁴, and the Foreign Ministry established a 'Department of Human Rights'.¹²⁵ Both the German government and the UNSR welcomed this “creation of new structures” as a “tangible” progress.¹²⁶

In February 1996 the new UNSR Maurice Copithorne was admitted to his first “introductory” visit to Iran. But the Iranian government denied him a second visit in December arguing that his report had been abused by “certain countries” to “reinforce their pre-judgements and pre-drawn conclusions” against Iran. ¹²⁷ Despite this setback Copithorne's second report in 1997 gave evidence of major changes in the public debate on human rights in Iran. He attested a positive attitude on human rights issues to the political elite, saw changes in the status of women, and a much more open and controversial political debate in the general public and the press.

Copithorne concluded saying there was “no doubt that progress is being made.”¹²⁸ The report obviously reflected the public mood in Iran prior to the election of

¹²² 'Report on the Human Rights Situation in Iran', January 1992, quoted in: *Yearbook of the United Nations*, 1992, vol.46, Dordrecht, Boston, London, 1993, p.787.

¹²³ cf. 'Report on the Human Rights Situation in Iran', February 1991, summarized in: *Yearbook of the United Nations*, 1991, vol.45, Dordrecht, Boston, London, 1992, p.601.

¹²⁴ For a review of its activities and statute cf. 'Report on the situation of human rights in the Islamic Republic of Iran', prepared by the Special Representative on the Commission on Human Rights, Mr. Maurice Copithorne, Economic and Social Council, E/CN.4/1997/63, 11.2.1997, §58-59; and *The Echo of Iran*, no.86, May 1995, p.15f.

¹²⁵ cf. 'Ergebnisse des 'kritischen Dialogs'', fn.96, p.8f.

¹²⁶ 'Iran-Politik der Bundesregierung', fn.59, p.4; 'Report on human rights 1997', fn.124, §59.

¹²⁷ 'Report on Human Rights 1997', fn.124, §9.

¹²⁸ 'Report on Human Rights 1997', fn.124, Executive Summary, §2-4.

President Khatami, who's campaign had focused on women's rights, the rule of law and the freedom of expression.

These improvements, however, must be viewed in the light of the serious violations of human rights that occurred during the years of the 'critical dialogue'. Hundreds of people were imprisoned without trial, many for political reasons, torture was regularly used to reach false statements, corporal punishments like mutilation and public flogging continued, and hundreds of people were executed without proper trial. The Baha'i community was subject to political persecution, many of its leaders imprisoned and some executed, causing especially grave concern in Europe.

As already indicated, public officials still voiced their determination to pursue the *fatwa* against Salman Rushdie, clearly indicating their disrespect for international norms. In April 1996, the President of the IC HR Ayatollah Yazdi, made a statement openly contradicting the government's position not to pursue the *fatwa*:

"The fatwa applies to all Muslims and will eventually be carried out one day, at the appropriate time. The Rushdie matter will be resolved through application of the *fatwa*. We cannot resolve it through negotiations or under pressure from this or that country. The fatwa creates an obligation for Muslims in their personal capacity, not for States."¹²⁹

Such statements as well as other incidents of human rights violations were clearly designed to weaken the 'moderate's' position both domestically and internationally.

As a matter of major Western concern, the popular Iranian writer and editor of the monthly *Adineh* (Friday) Faraj Sarkuhi was arrested during a meeting with the cultural attaché of the German embassy at the height of the controversy over the *Mykonos* trial in November 1996 and later charged with espionage.¹³⁰ In a letter smuggled outside Iran and published by major newspapers, Sarkuhi made his ordeal of torture and unjust imprisonment public in the West¹³¹, provoking yet another international condemnation of Iran. The German Foreign Minister reacted strongly, announcing the fate of Sarkuhi would be one of the first matters to be discussed if relations with Iran are to be restored.¹³² Sarkuhi was finally released from prison in January 1998¹³³ and lives in Germany since May 1998. In an interview with the German daily *Süddeutsche Zeitung* he voiced his desire to return to Iran to continue his journalistic work.¹³⁴

¹²⁹ *Agence France Press*, 21.4.1996, quoted in: 'Interim Report on the Situation of Human Rights in the Islamic Republic of Iran', prepared by the Special Representative on the Commission on Human Rights, Mr. Maurice Copithorne, General Assembly, A/51/479, 11.10.1996, §29.

¹³⁰ cf. Steinbach, Udo: 'Die Beziehungen Bundesrepublik Deutschland-Nahost 1996' (*German relations with the Middle East in 1996*), *Nahost-Jahrbuch 1996*, fn.58, pp.13-16, here p.14.

¹³¹ Printed as: Sarkuhi, Faraj: 'I told them I wanted them to kill me', *The Guardian*, 31.1.1997, p.14.

¹³² Klaus Kinkel quoted in: 'Germany Prepared to Repair Relations with Tehran', *Reuters*, 26.8.1997. The Foreign Ministry declared, however, that with the suspension of the 'critical dialogue' it had lost influence on Iran over human rights issues like the Sarkuhi-case. 'Bonn Loses Influence over Sarkuhi Case', *Reuters*, 23.4.1997.

¹³³ Dreger, Thomas: 'Faradsch Sarkuhi darf das Gefängnis verlassen' (*Sarkuhi Allowed to Leave Prison*), *Tageszeitung*, 29.1.1998, p.1; 'Vorläufiges Ende eines brutalen Spiels' (*Temporary End of a Brutal Game*), *ibid.*, p.3.

¹³⁴ 'Wer denkt, wird zwangsläufig politisch ; Der iranische Literaturkritiker Faradsch Sarkuhi über Islam und Demokratie (...)' (*Once you start thinking you inevitably become political*), *Süddeutsche Zeitung*, 23./24.5.1998, p.14.

In summary, improvements in the realm of human rights have been ambiguous, yet the election of Khatami discussed below clearly signified the slight 'opening' of the Iranian system and slight improvements in human rights conduct.

Impact on Iran's Foreign Policy

In contrast to human rights, changes in Iran's foreign policy have been both tangible and significant, however, again, ambiguous due to the internal power-struggle. The foreign policy of the Islamic Republic is directed by the spiritual leader Ayatollah Khamene'i, who has consistently thwarted moves towards reconciliation with the West. While initially perceived by some as a 'technocrat' whose favour for an 'open' economy was interpreted as a rather 'pragmatic' position¹³⁵, Khamene'i was a major brake in moves towards a 'moderate' foreign policy, and his continuing power will definitely determine the extent of moderation under President Khatami.

In the regional sphere Iran showed readiness to reconciliation with its neighbours, both in the Central Asian republics and the Gulf.¹³⁶ Iran engaged in UN-negotiations for a peace-agreement in Afghanistan¹³⁷, and made several overtures to the GCC-states for *rapprochement*. Apart from unresisted intrusions into Iraqi territory to fight the Liberation Army of the *Mujahedin e-Khalq*¹³⁸, Iran showed no aspirations to militarily threatening Gulf stability.¹³⁹ Iran took part in several negotiations over a peaceful settlement of the Musa-Island dispute, although little progress has been made so far.¹⁴⁰ While the United States emphasised Iran's threatening military and potentially nuclear capabilities, the Gulf states seemed to perceive a lessening threat from Iran, while Iraq remained to be perceived as a constant danger to Gulf security.¹⁴¹

Iran's position towards the Peace Process was ambiguous throughout, although harsh rhetoric against any peace-agreement and support for the radical Palestinian resistance was tamed down, the latter allegedly reduced to financial rather than military aid.¹⁴² Setbacks were continuing, most notably when the allegedly 'moderate' President Rafsanjani called the assassination of Yitzhak Rabin 'the realization of

¹³⁵ cf. Ehteshami, *After Khomeini*, fn.65, p.18.

¹³⁶ On Iran's regional foreign policy cf. Reissner, Johannes: 'Der Iran auf dem Weg zu einer Regionalmacht' (*Iran on the Way of Becoming a Regional Power*), in: *Aus Politik und Zeitgeschichte*, no.B18, April 1996, pp.32-39.

¹³⁷ I am indebted to Fred Halliday for his elaboration on this point. Interview, 4.9.1997 in London.

¹³⁸ cf. Dabrowska, Karen: 'Iran Attacks the safe haven', *Middle East International*, 16.8.1996, p.6.

¹³⁹ Fred Halliday argues that "Iran has been less aggressive in its foreign policy than any other major country that surrounds it." 'Iran; Partner or Pariah?', Paper presented at the Conference 'Iran; Partner or Pariah?' at the Royal Institute of International Affairs, London, 14.11.1995, p.4. (Reference with permission of the author).

¹⁴⁰ cf. Joffé, George H.: Disputes Over State Boundaries in the Middle East and North Africa, in: Guazzone, Laura (ed.): *The Middle East in Global Change; The Politics and Economics of Interdependence versus Fragmentation*. London, New York, 1997, pp.58-75, here pp.70f.

¹⁴¹ Bill, James: 'The United States and Iran; Mutual Mythologies', *Middle East Policy*, vol.2, no.3, 1993, pp.98-106, here p.102; Gause, F. Gregory III: 'The Illogic of Dual Containment', *Foreign Affairs*, vol.73, no.2, March-April 1994, pp.56-66, here p.60f.

¹⁴² cf. Reissner, 'Iran auf dem Weg', fn.136, p.39; Gerges, 'Washington's Misguided Iran Policy', fn.110, p.9f.

God's promise to take revenge'.¹⁴³ In an unprecedented move the German Parliament passed a motion condemning the words and most embarrassingly, called on the government to disinvite Foreign Minister Velayati¹⁴⁴ who had been expected to an Islam-Conference in Bonn organized by Foreign Minister Kinkel. ¹⁴⁵ Kinkel called off the conference instead of following the motion, a major setback and embarrassment for German Iran policy.¹⁴⁶

Yet the greatest inconsistencies with regard to the 'critical dialogue' was the European treatment of assassinations of members of the Iranian opposition abroad. In France, the trial for the murder of former Iranian prime minister Shapour Bakhtiar in 1991 collapsed due to lack of evidence. Two suspects supposed to be extradited to Switzerland on charges of having assassinated the brother of an Iranian opposition leader Kazem Rayavi in 1990 were 'expelled' to Iran for the reason of "national interest".¹⁴⁷

In Germany the trial for the murder of four leading members of the Iranian-Kurdish opposition in September 1992, i.e. shortly before the 'critical dialogue' was announced, was contradicted by alleged German cooperation with the Iranian secret service.¹⁴⁸ The Iranian Minister for Security, Ali Fallahian, was welcomed in Bonn by the government's secret-service co-ordinator Schmidbauer and praised the good cooperation of German and Iranian secret services, while the state-prosecution considered to issue a warrant on Fallahian for his indirect involvement in the assassination.¹⁴⁹ Although Schmidbauer managed to negotiate the exchange of prisoners of war between the Iranian-sponsored *Hizballah* in Lebanon and Israel ¹⁵⁰, his contacts were hard to justify, and pressure on the government grew to sever ties with Iran.¹⁵¹

In April 1997, the *Kammergericht* (Court of Appeal) in Berlin ruled in an unexpectedly frank verdict¹⁵² that the political leadership of Iran (i.e. the Spiritual Leader, the President, the Foreign Minister, and the Secret Service Minister), represented in a *Committee for Special Operations* alleged to have authority over such decisions, had

¹⁴³ Rieck, 'Iran 1995', *Nahost-Jahrbuch 1995*, fn.58, pp.80-87, here p.84. (Translation M.S.)

¹⁴⁴ 'Entschließungsantrag zur dritten Beratung des Entwurfs des Haushaltsgesetzes 1996' (*Includes: Motion to disinvite the Iranian Foreign Minister*). Deutscher Bundestag, Drucksache 13/2983, 10.11.1995.

¹⁴⁵ cf. 'Europa erobern' (*Conquering Europe*), *Der Spiegel*, no.45, 1995, p.51f.

¹⁴⁶ cf. Steinbach, Udo: 'Die Beziehungen Bundesrepublik Deutschland - Nahost 1995' (*German-Middle Eastern Relations 1995*), in: *Nahost-Jahrbuch 1995*, fn.58, pp.13-16, here p.16.

¹⁴⁷ 'Appeasing Iran; It doesn't work', *The Economist*, 15.1.1994.

¹⁴⁸ cf. Halliday, 'Elusive Normalization', fn.78, p.324.

¹⁴⁹ Alkazaz, Aziz; Steinbach, Udo: 'Die Beziehungen Bundesrepublik Deutschland-Nahost 1993' (*German relations with the Middle East in 1993*), *Nahost-Jahrbuch 1993*, fn.58, pp.13-18, here p.13f.

¹⁵⁰ On the exchange of prisoners of war and dead bodies between Israel and Hizballah, cf. Biedermann, Florence: 'Germany's Open Dialogue Policy with Iran Hailed', *Agence France Press*, 23.7.1996.

¹⁵¹ The weekly *Der Spiegel* published extracts of a secret dossier claiming the Iranian embassy in Bonn had become a base of the Iranian secret service. Cf. 'Stützpunkt der Spione' (*Base of Spys*), *Der Spiegel*, no.41, 1994, pp.18-21.

¹⁵² cf. 'Auszüge aus der mündlichen Urteilsverkündung', fn.6; a copy and transcription of an official order for the killing of Manoucher Ganji that provided a core proof for the charge of 'state-terrorism' by analogy, cf. 'Ein Mordbefehl aus Teheran im Wortlaut' (*Text of an Order to kill from Teheran*), *Frankfurter Allgemeine Zeitung*, 10.4.1997, p.5.

directly ordered the killings of four Kurdish opposition leaders in the *Mykonos*-Restaurant in Berlin in December 1992. While not naming Iran's leaders, the court ruled that the Committee, consisting *inter alia* of the Spiritual Leader, the President, the Foreign Minister, and the Secret Service Minister, had instructed the latter, Ali Fallahian, to organise the assassinations.¹⁵³ The verdict provided the first direct proof for what was widely condemned as Iranian "state-terrorism".¹⁵⁴ The German state-prosecution is legally obliged to investigate the charges against the Iranian leadership, even though German law does not apply to the representatives of foreign countries.¹⁵⁵ The written opinion of the court in March 1998 reiterated that the Iranian leadership had assassinated dissidents "for the sake of pure preservation of power".¹⁵⁶ It was only with the Berlin verdict that the 'critical dialogue' was suspended and the European ambassadors were recalled from Iran.¹⁵⁷ This opened the door for harsh criticism that the EU did not take Iranian terrorist activities serious. And when after two weeks the Council decided that the ambassadors could return, the doubts were strengthened that the EU lacked the commitment to exert pressure on Iran.¹⁵⁸ It must be remembered, though, that the murder in Berlin took place *before* the 'critical dialogue' was declared. To combine the fate of the dialogue with the Berlin-verdict is historically inaccurate. Yet the dialogue had been based on the weak conviction that Khamene'i and Rafsanjani represented a 'moderate' strand in Iranian politics worth supporting, and now these alleged 'moderates' were warranted for murder. The Iranian reaction to the verdict was milder than expected. President Rafsanjani called it an action of "propaganda" and threatened with consequences, while the Foreign Ministry doubted the proof and circumstantial evidence given by the court.¹⁵⁹ In what could be interpreted as a last retaliation, Rafsanjani declared at the end of his presidency that the European ambassadors could come back to Tehran, but the Danish and German, for their harsher stance on human rights, had to be last.¹⁶⁰

¹⁵³ 'Auszüge aus der mündlichen Urteilsverkündung', fn.6, p.129. Former Iranian President Abol Hassan Bani Sadr, a core witness, whose descriptions of the internal structure of the regime were later backed up by 'witness C', a dissident of the Iranian secret service, laid down his allegations in various interviews: 'A Network of Terror', *The Middle East*, April 1997, pp.17f.; 'Bonn ist erpreßbar' (*Bonn could be Blackmailed*), *Der Spiegel*, no.36, 1996, p.24.

¹⁵⁴ cf. Geitner, Paul: 'German Rules on Iran Killing', *Associated Press*, 10.10.1997; Leicht, Robert: 'Das Mykonos-Urteil zwingt zum Bruch mit Teheran' (*The Mykonos-Verdict Forces the Breach with Tehran*), *Die Zeit*, no.17, 18.04.97.

¹⁵⁵ Cf. Prantl, Heribert: 'Drohen und abwarten; Haftbefehle gegen Irans Repräsentanten sind Makulatur' (*Threatening and Waiting*), *Süddeutsche Zeitung*, 10.4.1997, p.10; 'Nach dem Mykonos-Urteil; Karlsruhe prüft neue Verfahren; Ermittlungen gegen Regierungsmitglieder Irans möglich' (*German State Prosecution Considers New Law-Suits*), *Süddeutsche Zeitung*, 17.04.97.

¹⁵⁶ cf. 'Urteilsbegründung zu Mykonos; Iran begeht Terroranschläge im Ausland' (*The Court's Opinion on Mykonos; Iran Commits Attacks of Terror Abroad*), *German Press Agency*, 29.3.1998. (translation M.S.)

¹⁵⁷ cf. 'Declaration by the Presidency on behalf of the European Union on Iran', Brussels, 10.4.1997, PESC/97/32. Only Greece hesitated 7 days to recall its ambassador, emphasising its determination to continue the 'critical dialogue'. Cf. 'Iran droht Deutschland mit Konsequenzen' (*Iran threatens Germany with Consequences*), *Süddeutsche Zeitung*, 12.4.1997, p.1.

¹⁵⁸ Lüders, Michael: 'Schamfrist, ultrakurz' (*A very Short Period of Grace*), *Die Zeit*, 9.5.1997, p.6.

¹⁵⁹ cf. 'Iran droht Deutschland mit Konsequenzen', fn.157.

¹⁶⁰ Motahari, Farshid: 'Iran's Surprising No to Return of German Ambassador to Tehran', *German Press Agency*, 30.4.1997.

Even if normal relations are beginning to resume now (see below), the EU was not cautious enough on Iran's alleged foreign policy 'moderation'. Any incidents related to Iranian authorities should be vigorously pursued, even for the price of temporarily severing ties with Iran. The claim that the naming of the Iranian leadership in the verdict had an effect on the Iranian elections namely in fostering the determination to vote for a different government is difficult to prove, yet it provides an incentive of being consistently 'critical' in the next future.¹⁶¹

Impact on Euro-Iranian Trade Relations

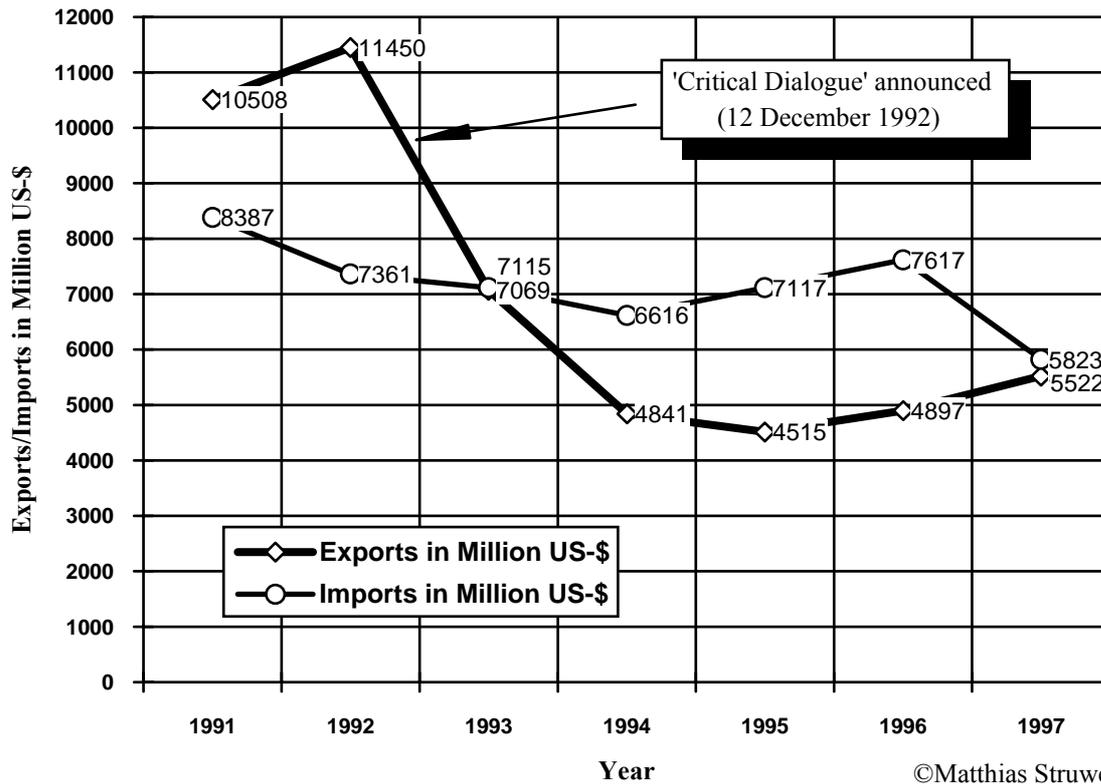
The general critique against an inconsequential human rights policy that defies to use economic sanctions as a tangible means of pressure is that it is determined by commercial interests rather than principle.¹⁶² Europeans, it has been argued by Patrick Clawson, "see Iran as a market worth selling their souls for". The United States, instead, were aware of the little importance of the Iranian market and ready to sacrifice their business interests to counter the "rogue state" Iran.¹⁶³

¹⁶¹ cf. interview with Udo Steinbach: 'Die Zeiten eines Fallahian sind vorbei', *Tageszeitung*, 10.04.97, p.14.

¹⁶² cf. Heinrich, 'Kritik des 'Kritischen Dialogs'', fn.13, p.541, 543: "Unhindered foreign trade-relations need ideological camouflage due to the rhetorical efforts made in this country [Germany] for human rights and civic freedom. Nothing else is provided by the critical dialogue." (Translation M.S.). For the example of China, where the U.S. pursues a policy of 'constructive engagement' despite heavy criticism of 'double-standards', cf. Tonelson, Alan: 'Jettison the Policy'; and Posner, Michael: 'Rally Round Human Rights', *Foreign Policy*, no.97, Winter 1994-95, pp.121-139.

¹⁶³ Clawson, 'What to do about Iran', fn.13, p.39.

TABLE 1: EUROPEAN EXPORTS AND IMPORTS TO IRAN 1991-1997¹⁶⁴



The Euro-Iranian trade balance, however, does not substantiate this allegation. It is true that especially France and Germany are strong competitors for the Iranian market, and Germany is Iran's main trading partner. Yet economic relations with Iran have dropped since 1992 (see Table 1), trade was restricted, and as already said, the EU made improvements *inter alia* in Iran's human rights record a precondition for closer economic ties, leading eventually to a Euro-Iranian trade agreement.

The Euro-Iranian trade-record must be viewed in the light of Iranian measures to curb imports due to sinking oil-prices and increasing American pressure, and in the light of general Iranian economic difficulties. Iran applied import-substituting measures to curb its trade-deficit and to pay off external debts mainly in European countries.¹⁶⁵ The impact of U.S. sanctions played also a role in scaring-off European investors and in reducing Iranian external investments.

European exports sank by 42 per cent between 1992 and 1996 while imports from Iran were only slightly reduced. In the case of Germany, Iran's main trading partner,

¹⁶⁴ Eurostat; *Außen- und Intrahandel der EU; Monatliche Statistiken (Foreign and Internal Trade of the EU)*, Statistical Office of the European Communities, no.4, 1998, Luxembourg, 1998, pp.42, 46, 43, 50. The original data is given in ECU and has been converted into US-\$ according to the exchange rates given by Eurostat.

¹⁶⁵ Amuzegar, Johangir: 'Iran's Economy and the US Sanctions', *Middle East Journal*, vol.51, no.2, Spring 1997, pp.185-199, here p.189f.

exports to Iran were curbed to one fourth between 1992 and 1996, while imports remained at a constantly low level.¹⁶⁶ (detailed tables are given in the Appendix)

Euro-Iranian trade was subject to both multilateral and bilateral restrictions. European firms were not allowed to deliver any armament to Iran, despite continuing allegations of illegal exports.¹⁶⁷ Due to American pressure, exports of dual-use¹⁶⁸ products to Iran were reduced, and a plan of the German firm *Siemens* to finish building a nuclear plant in Busher begun under the Shah was finally cancelled.¹⁶⁹

In 1995 Germany sent an economic delegation to Iran and decided to offer so-called *Hermes*-credit-guarantees of 150 million German Mark to revitalise economic relations. Although these guarantees were comparatively little in volume, they provoked serious critique from the U.S. and Israeli governments.¹⁷⁰

In March 1995 U.S. President Clinton decided to veto an agreement of the U.S. firm *Conoco* to invest \$1 billion in oil and Gas-fields in the Persian Gulf and in April declared a total boycott of trade and investment with Iran.¹⁷¹ The French firm *Total* took the opportunity to negotiate a new agreement together with the Russian *Gazprom* and the Malaysian *Petronas* despite fierce critique from the United States. The deal was signed in September 1997, immediately accompanied by a statement of the European Commission urging the U.S. not to take action under the ILSA.¹⁷²

In February 1997 Iran declared that it was offered “more than \$5 billion in government-backed loan guarantees from Europe and Japan over the last 18 months” and that European countries had helped to reschedule about \$22 billion in Iranian debts.¹⁷³

Neither the *Hermes*-credits and the *Total*-deal, nor the rescheduling of debts were made with at least publicly hinting at a trade-off between human rights improvements and revitalising trade. Although the deals did not fall directly under considerations of the ‘critical dialogue’, they gave weight to the argument that French and German economic interests were at times far stronger than human rights concerns.

In general, the promise of a Euro-Iranian trade-agreement discussed before the ‘critical dialogue’ was announced, however dim its prospects, remained one of the

¹⁶⁶ cf. ‘Wirtschaft: Iran-Handel seit langem rückläufig’ (*Economy: Iran-Trade has been in Decline for long*), *Woche im Bundestag*, no.7, 23.4.1997.

¹⁶⁷ cf. Fitchett, Joseph: ‘France Denies Selling Missiles to Iran in Exchange for Peace’, *International Herald Tribune*, 24.3.1995, p.10.

¹⁶⁸ ‘Dual-use’ technologies are products that have both civil and military use, such as Computers etc.

¹⁶⁹ cf. Lane, Charles: Germany’s New Ostpolitik, *Foreign Affairs*, vol.74, no.6, Nov.-Dec. 1995, pp.77-89, here p.83.

¹⁷⁰ cf. Alkazaz, Aziz: ‘Die Wirtschaftsbeziehungen zum Nahen Osten’ (*Economic Relations with the Middle East*), in: *Nahost-Jahrbuch 1995*, fn.58, p.17.

¹⁷¹ Rieck, ‘Iran 1995’, *Nahost-Jahrbuch 1995*, fn.58, p.82.

¹⁷² cf. *The Echo of Iran*, no.113, October 1997, p.22f.; ‘Total Contract in Iran’, Statement by Sir Leon Brittan, 30.9.1997, IP/97/825.

¹⁷³ Friedman, Alan: ‘Europe and Iran are Guaranteeing \$5 Billion in Loans, Tehran Reports’, *International Herald Tribune*, 3.2.1997.

‘carrots’ in the background.¹⁷⁴ Since such an agreement would have been subject to human rights conditionality by the European Parliament, the Commission and the Council of Ministers had to press for improvements in Iranian behaviour.

In summary, economic relations with Iran did not flourish due to the ‘critical dialogue’. European economic stakes in Iran were often exaggerated and cannot be generally assumed to be the only reason hindering the EU to impose sanctions against Iran. During 1997 while relations were severed and the ‘dialogue’ suspended, commercial relations even recovered significantly. Thus it is hard to claim the ‘critical dialogue’ was a policy of ‘business as usual’ with a moral colouring.

The Council argued that trade with Iran was benefiting the ‘pragmatists’ who could only move towards a conciliatory foreign policy if the domestic economic situation was recovering. And in absence of multilateral UN-measures against Iran, the EU saw no legitimate ground for the imposition of sanctions as long as Iran did not pose a grave threat to international security. Commissioner Karel van Miert made clear that “the European Union has consistently opposed the use of embargoes except where specifically approved by the United Nations.”¹⁷⁵

VI. The Controversy over the ‘Critical Dialogue’

The ‘critical dialogue’ was continuously and fiercely criticised. The coalition of critics brought together a bizarre mixture of right-wing Senators as well as government-officials in the United States, left-wingers and social-democrats in Europe, human rights groups, and the multifaceted Iranian opposition-in-exile.

Yet the critique was seldom based on similar assumptions, and especially in the American case did little justice to the normative nature of the critical dialogue.

The American Policy of ‘Isolating’ Iran

The American policy of “active containment” against Iran was based on traditional perceptions of the ‘balance of power’ in the Gulf. Outlined by Martin Indyk in May 1993 the policy “derives from the assessment that the current Iraqi and Iranian regimes are both hostile to American interests in the region.”¹⁷⁶ While the preceding U.S.-approach had been to depend on one power to counter the other, a policy of “dual containment” was proposed to contain both states in an equal manner.¹⁷⁷ Its core objective was “to preserve a balance of power in our [the American] favour in the wider Middle East region”, while it was in the same time assumed to enhance the

¹⁷⁴ cf. Commissioner Martin Bangemann: “(.) we were not prepared to conclude the cooperation agreement which Iran had requested. In all our talks we have stressed the fact that the resolution of the human rights issue is a precondition for the conclusion of any such agreement (.)” *Debates of the European Parliament*, 15.6.1995, no.4-464, p.211.

¹⁷⁵ *Debates of the European Parliament*, 24.5.1996, no.4-482, p.279; cf. also Commissioner Vanni d’Archirafi, *ibid.*, 22.4.1993, no.3-430, p.284: “economic sanctions must be based on an international consensus (.)”.

¹⁷⁶ Indyk, ‘The Clinton Administration’s Approach to the Middle East’, fn.3, p.4. For an analysis of ‘dual containment’ cf. Sick, ‘Rethinking Dual Containment’, fn.112, pp.6-8.

¹⁷⁷ *ibid.*, p.3f.

American efforts to promote the Arab-Israeli Peace Process.¹⁷⁸ At least in its outline¹⁷⁹, neither human rights nor the internal dimension of Iranian politics played a role in formulating this explicitly *unilateral* policy:

”When we assess Iranian intentions and capabilities we see a dangerous combination for Western interests (...). It is the foremost state sponsor of terrorism and assassination across the globe (...). We will pursue the effort of active containment unilaterally, maintaining the counter-terrorism sanctions (...) to encourage a change in Iranian behaviour.”¹⁸⁰

But despite the American trade-embargo against Iran of 1987¹⁸¹ the first two years of containment were undermined by American companies increasing their exports to Iran by 40 per cent between 1992 and 1993, while imports of Iranian oil for sale on the European market increased from \$3,5 billion in 1992 to \$4,3 billion in 1994 making the U.S. the third major Iranian trading partner.¹⁸² The obvious discrepancy between harsh rhetoric and growing commercial relations became the core European argument to object U.S.-demands for multilateral Western sanctions against Iran. In June 1993 Secretary of State Warren Christopher tried unsuccessfully to convince EU-Ministers to impose a joint economic embargo on Iran, though he exerted pressure to at least reduce the export of ‘dual-use’ technology to Iran.¹⁸³ The U.S.-government successfully opposed a joint rescheduling of Iranian debts in the so-called *Paris-Club*, forcing EU-countries and Japan to negotiate bilateral agreements with Iran.¹⁸⁴

Yet when the American oil company Conoco announced that it had signed a contract worth \$1 billion with Iran to develop the Sirri gas field in the Persian Gulf, the outrage caused by the deal in the American public provoked President Clinton to impose a “comprehensive trade-embargo” against Iran.¹⁸⁵ Issuing Executive Order 12957 the President declared “a national emergency”¹⁸⁶ with respect to Iran “to prohibit the financing, management or supervision by United States persons of the development of Iranian petroleum resources.”¹⁸⁷ The Order was based on the American assertion that

¹⁷⁸ *ibid.*, p.3, 4.

¹⁷⁹ According to Gary Sick, ‘dual containment’ was later ‘refined and reordered’ by Edward Djerejian, replacing the American objection to conventional weapons-purchases with Iran’s “dismal human rights record”. cf. ‘Rethinking Dual Containment’, fn.112, p.8 and fn.10. Yet in general human rights played a minor role. Cf. ‘Statement of Robert H. Pelletreau, Assistant Secretary of State, Bureau of Near East Affairs, Before the House Foreign Affairs Committee, Subcommittee on Europe and the Middle East, 1.3.1994’, *Middle East Policy*, vol.3, no.1, 1994, pp.186-193, here p.190.

¹⁸⁰ Indyk, ‘The Clinton Administration’s Approach to the Middle East’, fn.3, p.5f.

¹⁸¹ Since 1987 the import of goods and services of Iranian origin was prohibited due to Executive Order 12613 of 29.10.1987, excluding, however, *inter alia* considerable oil-exports from Iran by American companies.

¹⁸² Rieck, ‘Iran 1993’, *Nahost-Jahrbuch 1993*, fn.58, p.80; Rieck, ‘Iran 1994’, *Nahost-Jahrbuch 1994*, fn.58, p.82; Lane, ‘Germany’s New Ostpolitik’, fn.169, p.78; Lancaster, John: ‘Iran Embargo Leaking Heavily’, *Washington Post*, 23.6.1995.

¹⁸³ cf. Rieck, ‘Iran 1993’, *Nahost-Jahrbuch 1993*, fn.58, p.80.

¹⁸⁴ In total \$15 billion of debts were rescheduled, mainly by Germany, France, Italy, and Japan. Cf. *ibid.*, p.82.

¹⁸⁵ cf. Sick, ‘Rethinking Dual Containment’, fn.112, p.9f; ‘Report on Developments Concerning the National Emergency with Respect to Iran’, The White House, 13.09.1996.

¹⁸⁶ A “national emergency” with respect to Iran had been in place since the hostage crises of November 1979, the 1995 declaration went explicitly further than that of 1979.

¹⁸⁷ ‘Executive Order 12957 Prohibiting the Transactions with respect to the Development of Iranian Petroleum Resources’, The White House, 15.3.1995.

“the actions and policies of the Government of Iran constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.”¹⁸⁸

A second Executive Order prohibited all trade, trade financing, loans, related financial services and investments in Iran.¹⁸⁹ As it is visible from table 4/5 the sanctions succeeded in preventing American trade with Iran, causing the restructuring of the Iranian economy to slow down¹⁹⁰ and thereby increasing European fears that the ‘radicals’ could be further strengthened by economic recession.¹⁹¹ The American decision to impose sanctions was justified by the alleged Iranian sponsorship for terrorism, its activities to undermine the Arab-Israeli Peace Process, its alleged support for “groups seeking to subvert secular regimes in the Muslim world”, its quest for weapons of mass destruction, its conventional military build-up, and Iranian human rights abuses.¹⁹²

In a next move reflecting the anger at the EU’s refusal to join the embargo, Republican Senator Alfonso D’Amato introduced a bill in Congress to sanction companies investing in the Iranian oil-industry, later implemented as the ‘Iran and Libya Sanctions Act’ (ILSA). Sanctions were to be imposed on any company investing more than \$40 Million (since 1997 \$20 Million¹⁹³) in the Iranian oil or gas sector. Investments in the petroleum-industry of a “rogue state” like Iran, D’Amato’s Aide explained, facilitated “Iran’s continuing aggression” and were “a threat to the national security and foreign policy of the United States.”¹⁹⁴ The bill had especially been triggered by the quick replacement of Conoco by the French oil company Total in 1995. It constituted an unprecedented move by the Congress to impose penalties on non-American companies dealing with Iran. President Clinton, despite reservations that the bill could harm transatlantic relations, signed the bill into law in August 1996 in the atmosphere created by the explosion of a TWA airliner and the bombing of the US military barracks at Al-Khobar in Saudi Arabia - both linked to Iran at the time.¹⁹⁵ These measures provoked strong European opposition. While the EU announced it shared US concerns over alleged Iranian sponsorship for terrorism, particularly the bill’s extraterritorial effects were opposed as a defiance of international law.¹⁹⁶

¹⁸⁸ *ibid.*

¹⁸⁹ ‘Executive Order 12959 Prohibiting Certain Transactions with respect to Iran’, The White House, 6.5.1995.

¹⁹⁰ Amuzegar argues, however, that most of these problems had internal rather than external reasons, cf. Amuzegar, ‘Iran’s Economy and the US Sanctions’, fn.165, pp.191-196.

¹⁹¹ cf. Hollis ‘Europe and the Middle East’, fn.52, p.28; Jansen, Michael: ‘Iraq, Iran and Libya - the Impact of Sanctions’, *Middle East International*, 16 May 1997, pp.16-17.

¹⁹² Tarnoff, ‘Containing Iran’, fn.4, p.47.

¹⁹³ Paul, Sonali: ‘U.S. Trigger for Iran Sanctions now \$20 Million’, *Reuters*, 6.8.1997.

¹⁹⁴ ‘D’Amato Aide Defends US Iran/Libya Sanctions Act’ (Text of a presentation made by Gregg Rickman at the 17th Annual Oil and Money Conference in London on 29 October), MEES, 11.11.1996, p.D1-D3, here p.D2, D1.

¹⁹⁵ cf. Sick, ‘Rethinking Dual Containment’, fn.112, p.19; On the reservations, Tarnoff, ‘Containing Iran’, fn.4, p.52.

¹⁹⁶ cf. ‘Declaration by the Presidency on behalf of the European Union on the Enactment of the D’Amato Legislation’. 21.8.1996, PESC/96/72; ‘Irish Presidency and Commission Protested to the US Administration against the Iran/Libya Sanctions Act’. 9.8.1996, IP/96/793.

The EU's refusal to join American sanctions had also been fostered by signs that at least some officials in the United States did not aim to change Iranian behaviour, but rather to weaken and destabilize the regime until it would be finally overthrown.¹⁹⁷ This belief had been *inter alia* provoked by a statement of the Foreign Secretary Warren Christopher in January 1995 who said that "we must isolate Iraq and Iran until there is a change in their governments"¹⁹⁸. One year later Congress passed a bill authorising the CIA to mount an \$18 million covert action programme "to change the nature of the government of Iran"¹⁹⁹. Even if these statements and the Congress resolution did rather reflect the hostile American attitude than concrete measures to overthrow the Iranian regime, the general American position and the measures taken lead to an unprecedented rift in Transatlantic relations.

Against the background of the emphasis on human rights taken here, the US approach of unilateral and in the EU's view 'illegal'²⁰⁰ sanctions against Iran provided no alternative for the 'critical dialogue'. First, the EU had chosen an approach that took the Iranian domestic situation seriously and defied the logic of collectively punishing 'Iran as a state'.²⁰¹ Second, the EU remained opposed to any measures contradicting international law, thus regarding a *multilateral* effort of the United Nations as a precondition to legitimize sanctions against Iran. The EU never perceived Iran as an "outlaw" state²⁰², but rather as a member of the international community that had to be persuaded, not bullied, to respect the norms and principles it has signed up to.

The American Critics of the U.S.-Approach

U.S. policy, however, was subject to strong domestic critique in the U.S. peaking in Spring 1997. Yet it was not the ignorance towards human rights that sparked the demand for a "more nuanced approach" towards Iran, the core argument put forward by political analysts like Zbigniew Brzezinski, Brent Scowcroft and Richard Murphy was rather that 'dual containment' had failed since it did in fact threaten the *real* American interests in the Gulf.²⁰³ The core points of critique were that Iran's military

¹⁹⁷ In fact, this is by definition the inherent logic of 'containment': "by preventing the expansion to hasten the downfall of that regime." Halliday, 'Iran; Partner or Pariah?', fn.139, p.4; cf. also Clawson, Patrick: 'The Continuing Logic of Dual Containment', *Survival*, vol.40, no.1, Spring 1998, pp.33-47, here p.33f.

¹⁹⁸ Secretary of State Warren Christopher, quoted in: Gerges, 'Washington's Misguided Iran Policy', fn.110, p.8.

¹⁹⁹ cf. Neff, Donald: 'Anti Iran Fever', *Middle East International*, 2.2.1997, pp.9-10, here p.9.

²⁰⁰ cf. Commissioner Karel van Miert, *Debates of the European Parliament*, no.4-482, p.279: "The pending US sanction legislation has already been subject to numerous European demarches (...). In those representations we conveyed our strongest objections to the extraterritorial applications of US jurisdiction as a matter of principle (...)."

²⁰¹ The notion of Iran *as a state* refers to the state as a territorial entity, while the notion *Iranian state* includes the complexity of the internal structure of the state. Cf. Hopgood, Steve: 'Theories of the State and Foreign Policy', School of Oriental and African Studies, unpublished paper, 10.1.1997.

²⁰² For this wording cf. Secretary Warren Christopher: 'Leadership for the Next American Century', Address before the John F. Kennedy School of Government, Harvard University in Cambridge, Massachusetts, January 18, 1996.

²⁰³ cf. Brzezinski, Zbigniew; Scowcroft, Brent; and Murphy, Richard: 'Differentiated Containment', *Foreign Affairs*, vol.76, no.3, May/June 1997, pp.20-30; Murphy, Richard W.: 'It's Time to Reconsider the Shunning of Iran', *Washington Post*, 20.7.1997, p.C01.

threat had been exaggerated²⁰⁴; that keeping military installations in the Gulf to back-up containment was too expensive²⁰⁵; that isolation brought Iran together with Russia and Iraq while in the same time increasing the reliance of the Central Asian states on Russia²⁰⁶; and that economic sanctions had in general been ineffective.²⁰⁷

Instead they argued the U.S.-government should enter into a “productive dialogue” with Iran²⁰⁸, stop hindering American firms to pursue their economic interests in the region, and continue exerting pressure against Iran’s quest for nuclear weapons.²⁰⁹

Ironically, some analysts said that U.S.-policy had been based on an exaggerated and dangerous ideal to promote democracy, and that the emphasis on human rights should be tamed down in favour of focusing on U.S.-interest in Gulf-security.²¹⁰

The only critique of American policy that was based on a rather normative approach came from Graham Fuller, who strongly argued in favour of a *multilateral* policy with an emphasis on regional security-cooperation, arms control, human rights, and in general the end of ‘balance of power’ politics. Such a policy, he stressed, would be “more in tune with the realities of the next century.”²¹¹

Hence, while it was often argued that Europeans and Americans should find a multilateral approach based on reconciling their policies²¹², both the supporters of the U.S.-approach and most of its critics were far from sharing a common position with the EU. The ‘critical dialogue’ differed from ‘active containment’ not only in the means applied, but also in the priorities given to the areas of concern about Iranian policies.

European Domestic Opposition

The main ‘sponsor’ for the EU’s human rights policy, the European Parliament, was also the main critic of the ‘critical dialogue’, based on the allegation that the Council of Ministers did not do enough to ensure improvements in Iranian behaviour.

²⁰⁴ cf. Gerges, ‘Washington’s Misguided Iran Policy’, fn.110, p.9.

²⁰⁵ cf. Conry, Barbara: ‘Time Bomb: The Escalation of U.S. Security Commitments in the Persian Gulf Region’, *Cato Institute Policy Analysis*, no.258, Washington, 29.8.1996, p.1.

²⁰⁶ cf. Gause, ‘Illogic of Dual Containment’, fn.141, p.60; and Conry, Barbara: ‘America’s Misguided Policy of Dual Containment in the Persian Gulf’, *Cato Institute Foreign Policy Briefing*, no.33, Washington, 10.11.1994.

²⁰⁷ cf. Amuzegar, ‘Iran’s Economy’, fn.165, p.191-196. The U.S. did not achieve any of its objectives: “There has been no notable change in the behaviour of the Islamic Republic on any of the issues of major concern to Washington.” (p.194)

²⁰⁸ Murphy, ‘Time to Reconsider the Shunning of Iran’, fn.203.

²⁰⁹ cf. Brzezinski; Scowcroft; and Murphy, ‘Differentiated Containment’, fn.203, p.20f.

²¹⁰ cf. Lenczowski, George: ‘Iran; the Big Debate’, *Middle East Policy*, vol.3, no.2, 1994, pp.52-62, here p.60f.; Murphy, Richard W.; Gause, F. Gregory III: ‘Democracy and U.S. Policy in the Muslim Middle East’, *Middle East Policy*, vol.5, no.1, January 1997, pp.58-67, p.58: “Persian Gulf security and progress on the Arab-Israeli peace process rank far ahead of promoting participatory politics in the list of America’s *real* goals in the Muslim Middle East, and that is as it should be.”

²¹¹ Fuller, Graham E.; Lesser, Ian O.: ‘Persian Gulf Myths’, *Foreign Affairs*, vol.76, no.3, May/June 1997, pp.42-52, here p.52; ‘Symposium on Dual Containment’, fn.3, p.8.

²¹² e.g. cf. ‘Taking on the Mullahs; If America and Europe Could Agree on a Common Approach, Iran Might be Helped to Become a More Gentler Place’, *The Economist*, 18.1.-24.1.1997, p.17-18.

Since the *fatwa* against Salman Rushdie in 1989, the EP tabled 10 resolutions condemning human rights violations in Iran specifically; and three resolutions against Iran's incitement for murder against Rushdie.²¹³ Countless Written Questions implicitly criticised the 'dialogue', and the parliamentary debates on both questions and resolutions continuously held up public awareness on Iranian misconduct.²¹⁴

The critique of Iran was strong: Iran was repeatedly condemned for "gross and systematic violations of human rights", for the perpetration of "state terrorism" especially in form of assassinations of opposition figures abroad, for the *fatwa* against Salman Rushdie, the repression of religious minorities such as the Baha'i community, for the "discrimination against women", for disrespecting the freedoms of religion and expression, and in general it was demanded "that the Iranian regime conform[s] to international human rights standards."²¹⁵ These condemnations were supported by a large majority, reflecting a remarkable unity of opposition to the 'critical dialogue'. In May 1989, five months before the EU normalised ties with Iran, the EP called on "all Member States and the Community to suspend their relations with the Iranian government until it has formally and publicly dissociated itself from the encouragement of international terrorism"²¹⁶

This shows the discrepancy between the Parliament's hardline on human rights and the EU-Council's policies in 1990. The 'critical dialogue', although reflecting the demands for pressure being exercised against Iran, was never perceived as sufficient. It was not surprising, though, that the EP called on the Council "to put a definite end to the 'critical dialogue'" after the *Mykonos*-trial, and instead to "enhance the dialogue with those promoting the transformation of Iran into a democratic state."²¹⁷

As the 'human rights conscience' of the EU, the EP's pressure was powerful. The tension between Council and Parliament on policy towards Iran is likely to remain.

The - expatriate - Iranian Opposition

The Iranian opposition-in-exile generally rejected the 'critical dialogue' and lobbied both in European member-states, in the EP, and in the American Congress for tough sanctions against Iran.²¹⁸ Apart from the obvious problems of legitimacy involved in discussing this opposition, the fact that the militarily organized *Mujahedin e-Khalq*, the best organized oppositional organisation represented politically by the National

²¹³ cf. the numerous resolutions listed in the bibliography.

²¹⁴ cf. the list of written and oral questions listed in the bibliography; and the *Debates of the European Parliament, Official Journal*, 24.5.1996, no.4-482, pp.278-282; 14. 3.1996, no.4-478, pp.247-254; 15.6.1995, no.4-464, pp.207-211; 6.4.1995, no.4-461, pp.195-202; 22.4.1993, no.3-430, p.277-285; 16.2.1989, no.2-374, pp.243-247.

²¹⁵ cf. 'Resolution on Iran', 20.02.1997, *Official Journal*, No C 85, 17.3.1997, p.145-146.

²¹⁶ 'Resolution on the Incitement to Murder by Iran', *Official Journal*, No C 158/230-231, 26.6.1989.

²¹⁷ 'Resolution on Iran', 15.5.1997, European Parliament, PE 259.216, *Official Journal*, No C 167, 2.6.1997.

²¹⁸ cf. Homayoun, Dariush: The New Constitutionalists of Iran, <http://www.iranemi.org/index2.htm>; for the Foundation of Democracy in Iran, cf. Timmermann, Kenneth R.: 'Time to End the 'Critical Dialogue' with Iran', *Wall Street Journal*, 10.6.1996; Secretariat of the National Council of Resistance of Iran (Paris): 'European Union must give priority to human rights and international principles; cut relations with mullahs' regime', 24.7.1997 at: <http://www.iran-e-azad.org/>.

Council of Resistance (NCR), was as radical and undemocratic in its aspirations as the Iranian regime, leaves us sceptical in judging the value of their claims.²¹⁹

Yet groups like the *Foundation for Democracy in Iran* who have distanced themselves from the NCR have also criticised the EU for its inconsistent policy towards Iran and demanded to give higher priority to human rights and impose sanctions.²²⁰

As discussed above, the Danish Parliament in Autumn 1996 agreed to a motion that forced the government to open a 'dialogue' with Iranian opposition groups. But the little support for these groups, their internal divisions, and the absence of a major opposition grouping in Iran make such a dialogue very difficult.²²¹

In absence of an opposition party in Iran the EU decided to support the allegedly 'moderates'; however little at times their influence was.²²²

VII. The 'Critical Dialogue' as a Human Rights Policy

The analysis and evaluation of the 'critical dialogue' has provided a compelling example for the increasing importance of normative concerns in the recently developed foreign policy of the European Union. The CFSP is deeply entrenched into what has become a widely accepted normative consensus on the conduct of international affairs. At the heart of this consensus lies the assertion that moral concerns are an inherent part of foreign policy-making in the 1990s.

Four major conclusions can be drawn from the analysis of the 'critical dialogue':

First, the European Union has made human rights one of the core variables in the conduct of its foreign policy. However weak and inconsistent the mechanism of the CFSP may be, the case study of the 'critical dialogue' demonstrates that even in the relations with what is perceived as a geopolitically and economically important region, the EU has not refrained from supporting change in the domestic structure of regimes with which it enjoys political and economic ties. This new priority reflects the general move towards a concept of foreign policy that reflects what the German Foreign Minister calls "a global responsibility" perceived as a duty for all states in the "system of international norms" as signatories of the UN Charter.²²³

The second conclusion can be drawn directly out of this normative framework: namely that in conjunction with the UN Charter the EU argues that coercive measures

²¹⁹ cf. The National Council of Resistance of Iran on the Internet, where its endorsement of violent opposition against Iran is clearly documented: <http://www.iran-e-azad.org/>. Support for NCRI was clearly ruled out e.g. by the German government. Cf. 'Iran-Politik der Bundesregierung', fn.59, p.6. In 1997 the U.S. State Department added the *Mujahedin-e Khalq* to its list of terrorist organisations in 1997. cf. Sick, 'Rethinking Dual Containment', fn.112, p.14.

²²⁰ cf. Timmermann, 'Time to End the 'Critical Dialogue'', fn.218.

²²¹ Interview with Henriette Rald, fn.121.

²²² There is little literature on *external* support for democratization. For a recent analysis arguing that a domestic opposition is essential for success, cf. Bratton, Michael: 'International versus Domestic Pressures for Democratization in Africa', in: Hale, William; Kienle, Eberhard (eds.): *Asia and Africa after the Cold War*, forthcoming, pp.153-188, here p.171-179.

²²³ Kinkel, Klaus: 'Deutschlands Verantwortung in der Welt' (*Germany's Responsibility in the World*), in: Klaus Kinkel (ed.): *Festschrift zum 70. Geburtstag von Bundesminister a. D. Hans-Dietrich Genscher*, Bonn, 1997, p.4f.

against a state because of grave human rights violations can only be applied multilaterally, since such measures constitute a grave interference into the sovereignty of states. As already noted, the European Union has rejected the assumption that sovereignty protects a state from being held responsible for domestic human rights abuses. Yet if coercion is applied, this coercion must be multilateral to be internationally legitimate.²²⁴

Third, the ‘critical dialogue’ was then, in absence of any measures by the United Nations, a multilateral policy based on the idea that cooperation rather than coercion can promote change in the internal policies of a state. This policy goes back to the CSCE process of the 1970s, where the concept of confidence-building measures was applied for the first time to deal with a system that was at that time totally rejecting any kind of human rights critique. The CSCE process, too, was shaped by the conviction that the internal predicament of a state was salient in determining how policy measures should be applied. Thus the CSCE-process defied the ‘balance of power’ logic of the Cold War, and though the claim is naturally disputed, surely contributed to the changes in the Soviet system and finally the end of the Cold War:

“Even in the dark days of the Cold War the Helsinki Final Act (like the norms laid down by the UN) proved to be of support to the oppressed and those who were struggling to defend the cause of human rights. Both official and unofficial contacts between the nations involved have contributed to the heartening upturn that followed in 1989 in Central and Eastern Europe.”²²⁵

The last point worth stressing is that the ‘critical dialogue’ put its emphasis on agents *in* Iran that the European Union perceived to hold the key for change. The reliance on these ‘moderates’ has been problematic as the Berlin-court has finally proven. Yet in absence of a viable alternative it was the only possibility to achieve the long-term changes in Iran which were indicated in the above cited Report of the UNSR, and that materialised with the election of Muhammed Khatami.

The ‘critical dialogue’, though, suffered from its inconsistent implementation that has continuously undermined its credibility. The major reason for this was that although the ‘dialogue’ had been conceptualised as a multilateral policy, the priorities of the ‘dialogue’ were interpreted differently in the member-states and thus left the European Union as a whole open to charges of ‘double-standards’. France influenced an ongoing criminal trial against Iranian suspects, and the decision to let two suspected murderers return to Iran for the sake of ‘national interest’ showed that ‘human rights’ had been at times subordinated to economic interests. Though Iranian attempts to break the EU’s unity after the *Mykonos*-verdict failed, a remark by the Italian Foreign Minister Lamberto Dini, “the recalling of the ambassadors was merely

²²⁴ on an emerging norm of multilateralism for humanitarian intervention cf. Kratochwil, Friedrich: ‘Sovereignty as *Dominium*’, in: Lyons, Gene M.; Mastanduno, Michael (eds.): *Beyond Westphalia? State Sovereignty and International Intervention*. Baltimore, London, 1995, pp.17-42, here p.40.

²²⁵ ‘Statement in the Third Committee of the UN General Assembly concerning human rights questions’, 19.11.1991, *EPC-Bulletin*, Doc.91/368, p.614.

a sign of solidarity with Germany as a member state to which we were linked”²²⁶, demonstrates that mechanical solidarity was not always an expression of shared political priorities.

On the other hand, the European reluctance to use ‘sticks’ or deny ‘carrots’ - apart from the overall promise of a cooperation agreement - in reaction to Iranian defiance of international norms, brought into question whether improvements in Iranian behaviour were really the precondition for *rapprochement*. Signing lucrative trade-agreements and granting state-secured credits to Iran could have been combined more tightly with the demand for improvements in Iranian policies.

The EU’s integration of human rights into its foreign policy has been institutionalized and entrenched to an extent that is - at least for the time being - irrevocable. The emphasis on human rights in the Barcelona Declaration on a new Mediterranean policy and the formulation in France and Britain of an ‘ethical’ or ‘moral’ foreign policy further strengthened this trend.²²⁷

Hence the conviction that human rights have a high priority, and that this concern must be addressed in dialogue with, not by military or sanctionary pressure against, Iran, will remain at the heart of European policy towards Iran.

In summary, the ‘critical dialogue’ clearly reflected the development of a European human rights policy that is based on norms. The policy concept underlying the ‘dialogue’ was based on a commitment to put human rights first, although the weaknesses of the multilateral European foreign policy led to inconsistencies and double-standards during the process of implementation.

The election of President Khatami points towards a new Euro-Iranian relationship that may have been influenced very little by the ‘critical dialogue’, but confirms the trust in support for the Iranian people to bring about change themselves.

VIII. Prospects for Future Policies Towards Iran

Since the suspension of the ‘critical dialogue’ in April 1997 and the presidential elections in Iran in May 1997 dramatic changes in both Iranian domestic and foreign policies occurred. But during the first year of Khatami’s presidency the new regime faced fierce opposition from hardliners, the European Union had difficulties to agree on a new policy-line, and despite a charm-offensive from both the Iranian and American side, no substantial changes in U.S.-Iranian relations have materialised so far.

²²⁶ ‘EU’s critical dialogue Towards Iran Failed’, *Weekly Press Digest*, vol.11, no.10, 28.2.-6.3.1998, p.6f., here p.6.

²²⁷ cf. ‘Barcelona Declaration’, fn.49; Jünemann, ‘Mittelmeerpolitik der EU’, fn.40, p.97. Yet Jünemann stresses that the concept of political conditionality is currently not used in the Mediterranean cooperation. For Britain cf. ‘Human Rights Into A New Century’, Speech by the Foreign Secretary, Mr. Robin Cook, Foreign and Commonwealth Office, London, 17.7.1997; on France cf. ‘France; A New Foreign Policy?’, *The Economist*, 6.11.1997, p.46.

Khatami's Election Points Towards Change

The election of Muhammed Khatami was a clear vote of the Iranian people for a more accountable government, the rule of law, and against the harassment and discrimination of women. A record 21 million Iranians voted for Khatami, among them especially Youths and women, expressing their dissatisfaction with a stagnating economy and the suppression of freedom. On this large bases of popular support, Khatami has been given what observers called a "mandate for change".²²⁸ While an analysis of the election goes beyond the scope of this paper, the changes affecting Western policies towards Iran shall be addressed here.

To begin with, Khatami's election re-affirmed the position questioned by the critics of engagement with Iran that 'moderates' were and are existent in Iran. The struggle of the hardliners around the Majlis speaker Ali Nateq Nouri against Khatami, the open and controversial public discourse during the election campaign, and the change in tone and action after the new cabinet was approved by the Majlis demonstrated that the Iranian regime had never been and is not a unified block of power. Khatami had been Minister of Culture and Islamic Guidance from 1982 to 1992, when he was dismissed by the hardliners for being too permissive.²²⁹ Hence in retrospect the European assertion that the regime consisted of different factions and that some factions deserved support rather than isolation was unexpectedly confirmed.

Yet it would be presumptuous to claim that the 'critical dialogue' helped to bring this election about.²³⁰ The result was not a vote against the *fatwa* on Salman Rushdie, for taming down the obstruction of the Peace Process, or against the international terrorist activities the Iranian leadership has now been convicted of. Khatami's mandate is primarily based on the Iranian's desire for internal reforms, and the ramifications for Iran's foreign policy will depend on improvements in the domestic sphere.

Accordingly, one of the major Western concerns, the human rights conduct of the Iranian regime, is most likely to see improvements in the coming years. In October 1997 the UN Special Rapporteur Copithorne reported that "promising indicators of change" were to be observed in Iran, yet change had been "imperceptible" so far.²³¹ Namely the appointment of a woman as one of eight Vice-Presidents was interpreted as signalling progress on women's rights, based on the lively public discourse on the subject already under way. But apart from these improvements Copithorne observed

²²⁸ Nonneman, Gerd: 'Iran after the elections; the future under Khatami', *Middle East International*, 27.6.1997, p.19.

²²⁹ On Khatami's career cf. 'President Moham med Khatami; the Initiator of the Third Revolution', *The Echo of Iran*, no.109, June 1997, pp.22-26.

²³⁰ This opinion was shared in the interviews with Henriette Rald, fn.121; and Dr. Peter Schmidt, 1.9.1997, Bonn.

²³¹ 'Situation of Human Rights in the Islamic Republic of Iran', Interim Report on the Situation of Human Rights in the Islamic Republic of Iran, prepared by the Special Representative of the Commission on Human Rights in Accordance with General Assembly Resolution 51/107 and Economic and Social Council Decision 1997/264, A/52/472, 15.10.1997, §1.

“backsliding”, notably with the rise of the death penalty, and he saw no progress in the situation of the Baha’is and the *fatwa* against Salman Rushdie.²³²

Yet in January 1998 the second report noted that Khatami’s Government “is clearly attempting to move towards a more liberal view of dissent and has announced the objective of developing an Islamic civil society.”²³³ The government’s policy on women’s rights pointed to “accelerated change” and the executive branch was “making concrete efforts to create a secure context for freedom of expression in Iran.” As first steps bans number of publications have been lifted, the number of licenses for publications has nearly doubled and a press syndicate was founded.²³⁴ Most importantly, Copithorne noted that the government, facing increasing opposition from the hardliners and groups such as *Ansar-e Hezbollah* to promote freedom of expression, “may now have begun efforts to curb the extrajudicial groups.”²³⁵

A further important step towards political liberalization could be the formal acceptance of political parties promised by Khatami during the election.²³⁶ Among the first factions attempting to register as a party was the moderate technocrats known as *Kargozaran* under the leadership of the popular Tehran Mayor Gholam Hussein Karbaschi and a previously unknown ‘Islamic Iran Solidarity Party’.²³⁷ Political parties could be a core institution to foster the growth of civil society in Iran.

Yet apart from this trend, the situation of the Baha’is remained unchanged, the number of Executions has continued to grow sharply, and the Spokesman of the Foreign Ministry reiterated that the Government did not intend to issue a written guarantee that it would not seek to carry out the *fatwa* against Salman Rushdie.²³⁸

In March Iran hosted a UN workshop on Regional Human Rights Arrangements. The High Commissioner on Human Rights Mary Robinson used the occasion to press for an invitation of the UNSR to Iran to investigate the human rights situation.²³⁹ So far Iran has objected the visit since it regards the UNCHR as biased as its resolutions did not reflect improvements noted by the UNSR.²⁴⁰ The Rapporteur himself attacked

²³² *ibid.*, §1, §15-16, §39-41, §43-44.

²³³ ‘Report on the Situation of Human Rights in the Islamic Republic of Iran’, prepared by the Special Representative of the Commission on Human Rights, Mr. Maurice Danby Copithorne, pursuant to Commission resolution 1997/54, Commission on Human Rights, Fifty-fourth session, E/CN.4/1998/59, 28.1.1998.

²³⁴ *ibid.*, §10; Annex 1.

²³⁵ *ibid.*, §10-11.

²³⁶ In the presidential election most candidates had already been supported by “quasi-party political organizations.” Fairbanks, Stephen C.: ‘Theocracy versus Democracy; Iran Considers Political Parties’, *Middle East Journal*, vol.52, no.1, Winter 1998, pp. 17-31, here p.19.

²³⁷ cf. ‘In Iran entsteht eine politische Reform partei’ (*A Reformist Party Emerges in Iran*), *Süddeutsche Zeitung*, 22.5.1998, p.8; *Iran News Agency* (IRNA), 8.7.1998.

²³⁸ Mahmoud Mohammadi, quoted in: ‘EU; Exploratory Meeting with Iran’, *The Echo of Iran*, no.118, pp.12f, here p.13.

²³⁹ ‘United Nations Briefing Note’, United Nations Human Rights Press Room, 3.3.1998; ‘Human Rights Boss to Raise Concerns in Iran’, *Iran Weekly Press Digest*, vol.11, no.10, 28.2.-6.3.1998, pp.9f.

²⁴⁰ cf. ‘Report on the situation of human rights in the Islamic Republic of Iran’, 11.2.1997, fn.124, §9; ‘Iran Blames U.N. over Human Rights Report’, *Iran Weekly Press Digest*, vol.11, no.16, 11.4.-17.4.1998, p.12.

news agencies for their incorrect negative interpretation of his latest report, underscoring that the positive trend in Iran continued "and that the executive maintained its commitment to establish a more tolerant, more civil rights oriented society."²⁴¹

As far as foreign policy is concerned, Khatami has so far continued the preceding government's attempts to reconciliation in the region. In December 1997 The Khatami government used the summit of the Organization of the Islamic Conference (OIC) in Tehran to invigorate this trend. Saudi Crown Prince Abdullah attended the summit and met twice with Khatami, and Yassir Arafat attended the summit thereby visiting Tehran for the first time since 1979. Khatami used a press conference after the summit to propose a visit to the United Arab Emirates to discuss the dispute over the Abu Musa and Tunbs islands.²⁴²

In respect to the Iranian stance on terrorism, the Khatami government has reiterated previous statements by Rafsanjani that Iran objects terrorism in any form.²⁴³ Khatami has reiterated the Iranian opposition to the Peace Process while stressing that Iran does not intend to impose its view on others or stand in their way.²⁴⁴ But he calls Israel "a racist terrorist regime" and regards the support for "peoples who fight for the liberation of their land" not as "supporting terrorism" but as "supporting those who are engaged in combating state terrorism."²⁴⁵ Support for *Hamas* and *Hizballah* could fall under this category, and from that the Iranian position remains ambiguous.

It has also stressed its commitment not to interfere in the Arab-Israeli Peace Process, while it regards the Palestinian struggle against the occupation of Lebanon as legitimate. The Majlis ratified the Chemical Weapons Convention²⁴⁶, yet Iranian moves to acquire long-range missiles were said to continue.

The new policies of Khatami's government are facing growing opposition from the hardliners under the guidance of the Spiritual Leader Khamene'i and the Majlis-Speaker and defeated presidential candidate Ali Akbar Nateq-Nouri.²⁴⁷ Gholamhussein Karbaschi, Tehran Mayor and a core political supporter of President Khatami, was imprisoned in April, released after ten days and put on trial for alleged corruption.²⁴⁸ Karbaschi is not able to continue his duties as Mayor, and the trial

²⁴¹ 'Informal and Unofficial Note on the Press Conference by Mr. Maurice Copithorne, Special Representative of the Commission on Human Rights on the Islamic Republic of Iran', UN Human Rights Press Room, Geneva, 15.4.1998.

²⁴² cf. Sick, 'Rethinking Dual Containment', fn.112, p.19.

²⁴³ cf. 'CNN-Interview with Iranian President Mohammed Khatami', fn.10; 'Khatami Pledges to Fight 'Ugly Phenomenon' of Terrorism', *Iran Weekly Press Digest*, vol.11, no.10, 28.2.-6.3.1998, p.7.

²⁴⁴ cf. 'CNN-Interview with Iranian President Mohammed Khatami', fn.10, pp.9-11.

²⁴⁵ *ibid.*, p.9f.

²⁴⁶ The move was hailed by the G8 Summit in May 1998. Cf. 'Treffen der G8-Außenminister (*Meeting of the G8 Foreign Ministers*), 8/9.5.1998, London, *Bulletin*, no.38, Presse und Informationsamt der Bundesregierung, 4.6.1998, p.493.

²⁴⁷ For a good overview cf. MacLeod, Scott: 'Old Iran vs. New', *Time*, 6.7.1998, pp.26-28.

²⁴⁸ cf. Barzin, Sa'eed: 'The Arrest of a Mayor', *Middle East International*, 10.4.1998, pp.10f.; and 'Khatami's Silent Victory', *The Echo of Iran*, no.118, 15.4.-15.5.1998, pp.13f.

weakens his position and thereby the liberal faction. The chief editor of the daily *Iran News*, Morteza Firuzi, has been sentenced to death on charges of espionage, the verdict is under review.²⁴⁹ The Majlis voted to remove Interior Minister Abdollah Nouri for creating tensions in society by authorising protest demonstrations and giving provocative interviews. Khatami in turn appointed him as Vice-President for Development and Social Affairs.²⁵⁰ The four-month-old daily *Jamee* (Society), a symbol for the new freedom of the press under Khatami, was ordered to close down by a conservative court, yet the Ministry of Culture so far secured its continued publication.²⁵¹ Similar moves to obstruct the policies of the government are likely to continue. Hence the process of political opening in Iran will take a longer time than some Western optimists had hoped after the election. But apart from internal opposition, the regime must promote trust in its foreign policy in the international sphere. Khatami's desire to establish a civil society, to reconstruct the domestic economy, and to end Iran's regional isolation will depend on *rapprochement* with the West. Sustainable economic development will be the precondition for Khatami's government to initiate political reforms²⁵², and economic progress depends on Iran's economic and political cooperation with the West. This was underscored when Iran offered 43 oil and gas exploration and development ventures worth \$5 bn to Western companies in July 1998.²⁵³ Western investments in the Iranian oil and gas sector will be crucial in determining future economic growth and hence political stability. One major challenge lies ahead in the formulation of future Western policy towards Iran: Iran is increasingly perceived as the 'bridge' to the former Central Asian states whose rich gas and oil-resources are of major economic interest to both European and U. S. firms.²⁵⁴ Until now, the United States, however, oppose "any new pipelines through Iran carrying oil and gas to Western markets" and threaten to penalise firms investing in the Iranian oil market.²⁵⁵ If the U.S. position changes, there is the danger of what the American Deputy Secretary of State has called "a new 'great game'" for the exploration of these resources.²⁵⁶ *Great game* means essentially a geopolitical struggle for regional resources and political influence irrespective of the peoples and their desires, built on the traditional zones of influence. The alleged American

²⁴⁹ 'Todesurteil gegen iranischen Chefredakteur wird überprüft' (*Death-Verdict against Iranian Chief Editor under Review*), *Deutsche Presse Agentur*, 8.6.1998.

²⁵⁰ cf. 'Chatami hält an Reformpolitik fest' (*Khatami Continues Reform-Policies*), *Süddeutsche Zeitung*, 23.6.1998, p.8.

²⁵¹ cf. Amirpur, Katajun: 'Mullah-Streit um streitbares Blatt' (*Mullahs Battle on Quarrelsome Paper*), *Süddeutsche Zeitung*, 18.6.1998, p.10.

²⁵² cf. Hunter, Shireen T.: *Iran after Khomeini* (The Washington Papers 156), New York et al., 1992, p.142f.

²⁵³ Maclean, William: 'Iran Opens Oil Tender to Investor Applause', *Reuters*, 1.7.1998.

²⁵⁴ cf. Bird, Chris: 'Iran Key to Unlocking Central Asian Oil Riches', *Reuters*, 14.11.1997.

²⁵⁵ 'U.S.. Opposes Pipeline Through Iran', *Associated Press*, 23.10.1997; 'Iran and Libya Sanctions Act (ILSA); Decision in the South Pars Case', Statement by Secretary of State Madeleine Albright, London, 18.5.1998, U.S. Department of State.

²⁵⁶ Strobe Talbott quoted in: 'Iran Shifts Spark New U.S. interest in Ties', *Reuters*, 24.8.1997.

support for the most radical Islamists in Afghanistan (so-called *Taleban*) to ensure stability for a pipeline from Central Asia to Pakistan avoiding Iran is such a scenario.²⁵⁷

The exploration of the Central Asian resources is inevitable, but a multilateral body to organize and control it would be advantageous before competition turns into conflict. Iran is likely to resist anything that could be perceived as an interference into its domestic affairs, and radical nationalists could be strengthened if the West focused solely on economic interests, keeping in mind the experiences under the Shah.²⁵⁸ On the other hand, supporting Islamist groups like the *Taleban* while sanctioning Iran will be perceived as Western 'double standards', increasing doubts whether Western policy is still guided by hostility towards Iran rather than opposition to its policies.²⁵⁹

The EU: From 'Critical' to 'Comprehensive Dialogue'

As for the European Union, the precondition for the resumption of a 'dialogue' - the indiscriminatory return of all EU-ambassadors to Teheran - was met in November 1997.²⁶⁰ Iran declared its relations with the EU "normalised" in December 1997²⁶¹, but restrictions on bilateral Ministerial visits and a ban for Iranian intelligence personnel to enter EU member-states remained in place. Soon after the Iranian election, the German Foreign Minister Klaus Kinkel said that Germany "should deal openly with the apparently more liberal government"²⁶². After Khatami's CNN interview he argued for "a cautious resumption of contacts" and declared that Germany "wanted to resume closer economic cooperation."²⁶³ Under the British presidency the EU reviewed its policy towards Iran.²⁶⁴ In February and March the Union finally reacted on the new developments in Iran at the European Council in Brussels first by re-establishing contacts on the ministerial level and in March by declaring to resume a

²⁵⁷ cf. Artico, Alfonso: 'Afghanistan's ferngesteuerte Glaubenskrieger (Afghanistan's foreign-lead warriors)', *Le Monde Diplomatique* (German Edition), November 1995, p.15. In October 1997 a Consortium was formed led by the American UNOCAL Corporation to build a 790 miles pipeline from Turkmenistan to Pakistan claiming that the project "enjoys strong support from the governments and leadership of the three countries [Turkmenistan, Afghanistan, and Pakistan] involved." 'Consortium Formed to Build Central Asia Gas Pipeline', 27.10.1997 (Internet-document at: <http://www.unocal.com/>).

²⁵⁸ The Washington Post disclosed that most U.S. analysts arguing for a change are connected or direct consultants to U.S. oil-firms seeking to invest in Azerbaijan. Cf. Ottaway, David B.; Morgan, Dan: 'Former Top U.S. Aides Seek Caspian Gusher; Scowcroft, Sununu, Baker, Bentsen Help Lobby for Oil Policy Change', *Washington Post*, 6.7.1997, p.A01.

²⁵⁹ cf. Steinbach, Udo: 'Nachwort (Conclusion)', in: Hafez, Kai (ed.): *Der Islam und der Westen; Anstiftung zum Dialog (Islam and the West; Promotion of Dialogue)*. Frankfurt a.M., 1997, pp.214-219, here p.217.

²⁶⁰ 'European Ambassadors Return to Iran', *Reuters*, 14.11.1997; Sedarat, Firouz: 'Iran's Khatami Solves Row with EU help', *Reuters*, 14.11.1997.

²⁶¹ 'Iran nennt Beziehungen zur EU und Bonn normalisiert' (*Iran calls Relations to EU and Bonn normalised*), *Süddeutsche Zeitung*, 1.12.1997, p.7.

²⁶² German Foreign Minister Kinkel quoted in: 'Germany Prepared to Repair Relations with Tehran', *Reuters*, 26.8.1997.

²⁶³ 'Kinkel Urges Cautious New Start for EU-Iran Ties', *Reuters*, 8.1.1998; 'China liegt nicht in Afrika' (*China is not in Africa - Interview with Foreign Minister Klaus Kinkel*), *Tageszeitung*, 27.1.98, p.7 (Translation M.S.).

²⁶⁴ 'EU überprüft ihre Politik gegenüber Iran' (*EU Reviews its Iran-Policy*), *Süddeutsche Zeitung*, 28.1.1998, p.7.

“comprehensive dialogue with Iran”.²⁶⁵ In respect to the areas of concern that characterised the ‘critical dialogue’, namely weapons of mass destruction, terrorism, human rights, the *fatwa* against Salman Rushdie, and Iran’s attitude to the Middle East Peace Process, the Council confirmed to continue its critical engagement:

“While noting some improvements, the Council re-affirmed the importance of fully implementing its existing measures and of its continued vigilance in these areas of concern.”²⁶⁶

It remains to be seen, however, whether the ‘comprehensive dialogue’ is going to be implemented in the same manner as the ‘critical dialogue’. The recent developments in Euro-Iranian relations point into a different direction: First, relations have intensified on a bilateral level, while there has been only one Euro-Iranian meeting yet. And second, statements by the Italian Foreign Minister Lamberto Dini demonstrated that the consensus on a ‘critical’ policy towards Iran is faltering.

Dini was the first official to visit Tehran after the *Mykonos*-verdict just days after the EU formally resumed contacts. In a joint press-conference with Iran’s Foreign Minister Khamal Kharrazi he declared that the ‘critical dialogue’ “proved not to be successful” and that the EU had therefore decided to “hold a new form of dialogue”.²⁶⁷ Kharrazi echoed the statement saying “the time for criticising one another is over” thereby re-emphasising his previous critique of the ‘critical’ European approach.²⁶⁸ Dini’s remarks clearly contradict efforts by the German Foreign Ministry to defend the successes of the ‘critical dialogue’²⁶⁹ as well as the EU’s declaration to include the areas of concern underlying its previous policy into the ‘comprehensive dialogue’.

The trend was underscored with the visit of the Italian Prime Minister Romano Prodi in Tehran, the most influential European statesman to visit Iran since 1979. According to *Reuters*, his consultations “focused largely on trade-issues” while he played down the importance of human rights issues discussed in a meeting with President Khatami, saying this was “a problem of just any one country.”²⁷⁰

In contrast to Italy, the British government - as already noted earlier - has emphasised its commitment to demand improvements in the human rights situation in Iran, especially concerning the *fatwa* against Salman Rushdie. Foreign Secretary Robin Cook underscored that the ‘critical dialogue’ had enabled the EU to address the Iran’s human rights record and that he remained opposed to any isolation of Iran.²⁷¹

²⁶⁵ ‘2070th Council Meeting; General Affairs, Brussels’, 23.2.1998; ‘2078th Council Meeting; General Affairs, Brussels’, 30/31.3.1998, PRES/98/86; ‘2104th Council Meeting; General Affairs, Luxembourg’, 8/9.6.1998, PRES/98/190.

²⁶⁶ ‘2070th Council Meeting’, fn.265.

²⁶⁷ ‘EU’s critical Dialogue Towards Iran Failed’, *Iran Weekly Press Digest*, vol.11, no.10, p.6.

²⁶⁸ *ibid.*; ‘Iran Says ‘Critical Dialogue’ with EU Defunct’, *Iran Weekly Press Digest*, vol.11, no.6, 31.1.-6.2.1998, p.12.

²⁶⁹ cf. ‘Kinkel: Die Politik des kritischen Dialogs ist nicht gescheitert’ (*Kinkel: The ‘Critical Dialogue’ did not Fail*), *Frankfurter Allgemeine Zeitung*, 21.4.1997, p.2.

²⁷⁰ Lyons, Jonathan: U.S. Deeds Must Match Words - Iran’s Khatami’, *Reuters*, 1.7.1998.

²⁷¹ ‘Speech by the Foreign Secretary Robin Cook’, Washington, 19.6.1998 (Internet-document at <http://www.fco.gov.uk>).

The German government has been very cautious on resuming ties with Iran after the *Mykonos*-verdict. In May 1998 a delegation of the Foreign Ministry held first talks in Tehran to improve bilateral relations.²⁷² On their first meeting 14 months after the verdict, Foreign Minister Klaus Kinkel and his counterpart Kamal Kharrazi voiced their desire to improve political and economic relations.²⁷³ The German-Iranian *rapprochement* is overshadowed by the case of a German national, Helmut Hofer, who has been sentenced to death by stoning for an alleged illegitimate sexual relationship with an Iranian woman in January. The Iranian Supreme Court is currently reviewing the case and the chief of the Judiciary, Ayatollah Mohammed Yazdi, said that if the court confirmed the sentence, Hofer could be pardoned by the Spiritual Leader Khomeini.²⁷⁴ Foreign Minister Kinkel has made a solution to the 'Hofer case' a precondition for closer ties. In contrast to his Italian colleague Dini, Kinkel has argued that the 'critical dialogue' had been right in principle, but he wouldn't use the term anymore for its negative connotation.²⁷⁵ Accordingly he underscored that the EU's decision to resume dialogue would not qualify the problems of mutual relations with Iran:

"The existing concerns like human rights, Middle East-policy [the Peace Process], non-proliferation, or terrorism, will not be left aside under any circumstances."²⁷⁶

In general, those in the European Union convinced that human rights must and will remain a priority in Euro-Iranian relations will face increasing pressure from those willing to return to 'business as usual' with Tehran. Ignoring the concerns underlying the 'critical dialogue', however, would contradict the basic principles of the Union's foreign policy. Irrespective of the changes in Iran, the European Union must keep a consistent stance on acts of violence by 'radicals' in Iran who will continue to subvert Khatami's moves towards normalisation in domestic and foreign policies. In Germany, the former Minister for Security, Ali Fallahian, is searched per warrant by the federal prosecution and the other European member-states have been reassured by the *Mykonos*-verdict that any acts of violence committed or suspected to be committed by Iranian agents must be properly prosecuted. The EU must also watch closely the human rights situation in Iran, not to blame the Iranian government but to support moves towards the liberalization of the system. The European Parliament will

²⁷² The delegation consisted of Peter Dinges, Director general of the Foreign Ministry's Middle East Department, and Wolf-Ruthardt Born, Director-General for Consular Affairs. cf. 'German Foreign Ministry Officials Arrive in Tehran', *Iran Weekly Press Digest*, vol.11, no.20, 9.5.-15-5.1998, p.9.

²⁷³ cf. 'Bonn und Tehran nähern sich an' (*Bonn and Tehran Reconcile*), *Süddeutsche Zeitung*, 12.6.1998, p.6.

²⁷⁴ cf. 'The Helmut Hofer Case; Dangerous Liaison of a Hamburger', *Iran Weekly Press Digest*, vol.11, no.6, p.5-7.

²⁷⁵ 'China liegt nunmal nicht in Afrika', fn.263.

²⁷⁶ 'Interview des Bundesministers des Auswärtigen Dr. Klaus Kinkel mit der Saarbrücker Zeitung' (*Interview with Foreign Minister Klaus Kinkel*), 27.2.1998. (Translation M.S.); This was e.g. indicated by the *German Government's Report on Human Rights* stating that "the human rights situation in Iran remains poor", demonstrating the determination to monitor the situation critically. 'Iranian Human Rights Situation Still Poor - Bonn', *Reuters*, 4.12.1997.

remain critical to any 'normalisation' of ties without clear signals of change in Iran²⁷⁷.

The European Union shares many interests with Iran: to integrate Iran in a system of regional security, to help overcoming the internal economic crises, and to strengthen political ties with a 'moderate' Iran. But normalisation will be *conditional* on Iran's human rights record, on tam ing resistance towards the Peace Process, on an end to internationally pursued violence, and on a consensual solution to the Rushdie *fatwa*.

The United States: Towards Historical Reconciliation?

As for the United States, the State Department indicated soon after Khatami's election its desire to open a 'dialogue' with Iran, bound to the condition that Iran

"is willing to discuss areas of concern (...) , 'namely its opposition to the Middle East peace process, its pursuit of nuclear weapons, and its support for international terrorism'."²⁷⁸

This public proposal was accompanied by a secret overture for "direct, face-to-face talks to the government of Iran" delivered by the Swiss Ambassador in Iran to the Iranian Foreign Ministry.²⁷⁹ Iran rejected the (public) proposal demanding that the U.S. should "drop its terrorism charges (...) to prove it wants to end its hostility towards the Islamic Republic".²⁸⁰ The Spiritual Leader Khamene'i who is in control of foreign policy, refused categorically "the possibility of improved relations with Iran".²⁸¹

Yet in an extraordinary interview on Cable News Network (CNN) in January 1998, President Khatami called for a "crack in the wall of mistrust" between the United States and Iran and proposed a dialogue with the American people.²⁸² The U.S.-response remained cautious²⁸³ until President Clinton answered officially at the end of January 1998, giving way to speculations that mistrust could indeed be overcome:

"We have real differences with some Iranian policies, but I believe these are not insurmountable (...). I hope that we have more exchanges between our people and that the day will soon come when we can enjoy once again good relations with Iran."²⁸⁴

In June 1998 Secretary of State Madeleine Albright in a speech to the Asia Society, sketched "a roadmap leading to normal relations" echoing President Khatami's "desire for 'a world in which misunderstandings can be overcome and mutual respect and logic govern relations among states.'"²⁸⁵ Albright's speech was significant for

²⁷⁷ cf. its latest move urging both Council of Ministers and member-states to consider measures to increase pressure on Iranian authorities: 'Resolution on Human Rights', 19.2.1998, European Parliament, *Official Journal*, No C 80, 16.3.1998.

²⁷⁸ Spokesman James Rubin, quoted in: 'U.S. Cautiously Welcomes Iran Cabinet Approval', *Reuters*, 21.8.1997.

²⁷⁹ Gellman, Barton: 'U.S. Proposed Direct Talks in Overture to Iran', *Washington Post*, 9.1.1998, p.A01.

²⁸⁰ IRNA report quoted in: 'Iran Says U.S. should Drop Charges of Terrorism', *Reuters*, 21.8.1997.

²⁸¹ 'U.S. Should Drop Charges', fn.280.

²⁸² cf. 'CNN-Interview with Iranian President Mohammed Khatami', fn.10.

²⁸³ cf. Shalal-Esa, Andrea: 'U.S. welcomes Khatami Remarks but Wanted More', *Reuters*, 7.1.1998. State Department spokesman James Rubin reiterated that "the way to address the issues (...) is for our two governments to talk directly."

²⁸⁴ 'Clinton Backs More Contact with Iranians', *Washington Post*, 30.1.1998, p.A28.

²⁸⁵ 'Secretary of State Madeleine Albright; Remarks at 1998 Asia Society Dinner, New York', 17.6.1998.

three reasons: first, she dedicated large parts to the internal developments surrounding the election of President Khatami, turning away from the 'rogue state' rhetoric to a differentiated analysis of the domestic Iranian predicament. Second, and following from this, she named "serious violations of human rights" in Iran as the second major area of concern to the U.S. government besides the charges of "support for terrorism", and "efforts to develop long-range missiles and to acquire nuclear weapons". Previous charges that Iran undermined the Peace Process by supporting *Hizballah* and *Hamas* were substituted by welcoming Iran's decision to acquiesce on potential Arab-Israeli agreements. Third, Albright suggested that Iran could be included in "multilateral efforts to protect international security", as an example she mentioned the multilateral effort to counter the threat to peace in the Gulf War against Iraq in 1991. This could be interpreted as a sign that after the lost opportunity in 1991/92 the U.S. want to integrate Iran into a collective security system in the Gulf now, based especially on the *rapprochement* between Saudi Arabia and Iran in recent months.

As first steps to ease American-Iranian mistrust Albright said that access to visas for Iran had been facilitated, travel warnings for Iran revised²⁸⁶, cultural and academic exchanges were supported, and the State Department was exploring "further ways to build mutual confidence and avoid misunderstandings." President Clinton demonstrated his consent with Albright one day later emphasising that the United States were seeking a "genuine reconciliation with Iran based on mutuality and reciprocity (...)." ²⁸⁷

The American recognition of the new situation in Iran had already been reflected first in July 1997 with the US decision not to oppose the building of a pipeline that will carry oil from Turkmenistan through Iran to Turkey. Even though at the time Albright declared that the decision did not signal any change in US policy on Iran, it was interpreted as a major step towards reconciliation²⁸⁸.

Second, the administration granted a waiver to *Total*, *Gazprom*, and *Petronas* for the investment in the South Pars gas-field in May 1998.²⁸⁹ The waiver had been the result of intense Euro-American bargaining on the ILSA. In an 'understanding' between the EU and the U.S. in April 1997 the EU had agreed to suspend its panel against the ILSA at the World Trade Organisation in exchange for the American commitment to work for granting the EU Member States with a waiver under Section 9(c) or 4(c) of

²⁸⁶ cf. 'U.S. Eases Warning on Travel to Iran', *Iran Weekly Press Digest*, vol.11, no.13/14, 19.3.-3.4.1998, p.9.

²⁸⁷ 'Remarks by the President', fn.11.

²⁸⁸ cf. Morgan, Dan; Ottaway, David B.: 'U.S. Won't Bar Pipeline Across Iran; Move Seen as Gesture Of Reconciliation, Easing of Isolation', *Washington Post*, 27.7.1997, p.A01.

²⁸⁹ 'Iran and Libya Sanctions Act', fn.255; 'EU-US Summit Reaches Deal on Sanctions', 18.5.1998, *EU Press Release*, PR 43/98.

the ILSA.²⁹⁰ During the U.S.-EU Summit in May 1998 Albright waived the imposition of sanctions against the three firms arguing that the sanctions were not in American interest. Under Secretary of State Stuart Eizenstat defended the decision saying

“a decision to sanction would have undermined our efforts at multilateral and bilateral cooperation and would not have stopped the South Pars deal.”²⁹¹

In respect to the aims of the ILSA, non-proliferation and counterterrorism, the U.S. had achieved “a very high level of cooperation with [its] European partners” Albright argued, and these joint efforts could have been undermined by the sanctions. And if the high level of cooperation could be maintained, future ILSA cases similar to South Pars “would result in like decisions with regard to waivers for EU companies.”²⁹²

Finally, the President vetoed the ‘Iran-Russia Sanctions Bill’ intending to impose sanctions against any country assisting Iran in acquiring technology to construct long-range missiles.²⁹³ The administration argued the bill could obstruct the good U.S.-cooperation with Russia to prevent sales of missile and nuclear technology to Iran.²⁹⁴

But serious impediments to U.S.-Iranian reconciliation remain. In March 1998 President Clinton declared that the national emergency with respect to Iran had to continue

“because the actions and policies of the Government of Iran continue to threaten the national security, foreign policy, and economy of the United States”.²⁹⁵

With the national emergency the sanctions imposed in 1995 will remain, and a strong lobby is opposed to lifting them.²⁹⁶ Accordingly, American companies were sidelined when Iran offered the above mentioned oil and gas projects.²⁹⁷ As Gary Sick notes, the sanction acts as well as other structures and regulations will continue to “serve as legal impediments and irritants in relations among the US, Iran and key allies.”²⁹⁸ An end of the Republican majority in Congress after the elections in 1998 could be a crucial factor in revising the American position.

²⁹⁰ ‘Understanding between the European Union and the United States on US Extraterritorial Legislation’, 11.4.1997 (Internet-document at <http://europa.eu.int>). The ILSA grants waivers under section 4(c) for states implementing measures to achieve the aims of the act, namely to prevent Iran from supporting terrorism and acquiring weapons of mass destruction, and under section 9(c) if it is important to the national interest.

²⁹¹ Eizenstat, Stuart E.: ‘Economic sanctions’, Testimony Before the House International Relations Committee, Washington DC, 3.6.1998.

²⁹² ‘ILSA; Decision in the South Pars Case’, fn.255. For a sharp critique of the decision cf. the Director of the Foundation of Democracy in Iran: Timmermann, Kenneth R.: ‘No Time to Play Nice with Iran’, *Washington Times*, 22.6.1998.

²⁹³ ‘Clinton blockiert Iran-Gesetz’ (*Clinton Vetoes Iran-Act*), *Süddeutsche Zeitung*, 25.6.1998, p.10.

²⁹⁴ But high approval of the bill in both Senate (90 to 4) and House (392 to 22) indicates a majority overriding the veto. Cf. Dewar, Helen: ‘House Joins Senate in Passing Bill on Russia-Iran Sanctions’, *Washington Post*, 10.6.1998, p.A09.

²⁹⁵ ‘Continuation of Iran Emergency’, The White House, Office of the Press Secretary, 4.3.1998.

²⁹⁶ *Inter alia* the architect of ‘dual containment’ Martin Indyk and the National Security Council’s Middle East expert Bruce Riedel. Cf. Fischer, Dean, MacLeod, Scott: ‘New Day Coming?’, *Time*, 19.1.1998, pp.28-30, here p.29f.

²⁹⁷ ‘U.S. Oilmen Look but can’t Touch as Iran Opens Up’, *Reuters*, 1.7.1998.

²⁹⁸ Sick, ‘Rethinking Dual Containment’, fn.112, p.23.

A Common Euro-American Approach?

From its very beginning the British EU presidency made Euro-Iranian relations a “policy priority”. The British Foreign Secretary Robin Cook declared to use all his influence to find a common Euro-American approach on Iran.²⁹⁹ As already noted, the major difficulties lay in overcoming differences on U.S.-extraterritorial legislation and on the means and priorities of influencing change in Iranian policies.

In respect to both questions, the British presidency achieved major improvements towards reconciling EU and U.S. policies. With granting a waiver to the South Pars project and promising like decisions in similar cases, the ILSA has been basically outmanoeuvred. The United States have acknowledged that the secondary boycott legislation undermines transatlantic cooperation and is detrimental to American interests.

But the U.S. government has in turn pressured the EU successfully to find a common line on counterterrorism and the proliferation of weapons of mass destruction, the two major U.S.-concerns in respect to Iran. At the U.S.-EU Summit in London in May 1998 two declarations were issued to underscore future cooperation on these issues:

- a *Declaration on Common Orientation of Non-Proliferation Policy*³⁰⁰ in which the EU and U.S. emphasised their “common interest in non-proliferation of weapons of mass destruction” and promised to enhance cooperation to ensure adherence to international control regimes. The EU declared its readiness to include such concerns in contacts with countries in the Middle East and South Asia, “notably Iran.” Pressure on Russia will be reinforced against its assistance to Iran’s ballistic missile programme. In particular, intense cooperation was proposed on dual-use goods and technology exports, an area of special U.S. concern in respect to Iran. The EU emphasised its comprehensive Dual-Use Regime already prevented exports of sensitive technology.

- a *Statement of Shared Objectives and Close Cooperation on Counter-Terrorism*³⁰¹, in which improvements in cooperation and joint action against terrorism on the bases of international legal instruments were proposed. The statement did not refer specifically to Iran but Secretary of State Albright emphasised that the “high level of cooperation with our European partners” on counterterrorism *inter alia* concerning Iran influenced the waiver granted in the South-Pars case, and that she expected in turn the cooperation to be strengthened by that decision.³⁰²

²⁹⁹ Ljunggren, David: ‘UK to press U.S. Hard on Iran over the Next Six Months’, *Reuters*, 14.1.1998.

³⁰⁰ ‘EU/US Declaration on Common Orientation of Non-Proliferation Policy’, London, 18.5.1998.

³⁰¹ ‘Statement of EU/US Shared Objectives and Close Cooperation on Counter-Terrorism’, London, 18.5.1998.

³⁰² ‘ILSA; Decision in the South Pars Case’, fn.255.

Both declarations are significant especially for the American acknowledgement that European policy towards Iran did in fact meet U.S.-concerns much better than the preceding transatlantic rows had indicated. From that the 'critical dialogue' in retrospect earned approval by the U.S. government in some key areas, an important message to those arguing that the EU had been weak on terrorism and proliferation.

With the ILSA-waiver and the two declarations the Summit managed to bridge the transatlantic rift on policy towards Iran in the main areas of dispute. And with the recent shift in U.S.-policy to take into account the domestic developments in Iran, notably human rights, Euro-American differences on Iran have diminished further. But as long as American unilateral sanctions against Iran remain, there will be no common policy towards Iran. The ground has been laid, however, and it seems to be only a matter of time until the means applied to influence Iranian policies will converge.

IX. Conclusion

The analyses of the 'critical dialogue' has provided a deep insight into the problems of a common European human rights policy towards Iran. Above all, the European Union has shown a clear commitment to address its concerns about human rights abuses, terrorism, and the Arab-Israeli Peace Process in dialogue with the Iranian government. This commitment derived from the increasing structural importance of human rights in the CFSP. Hence the future of Euro-Iranian relations will inevitably involve disputes over human rights questions as long as the situation in Iran gives reason for concern.

But the 'critical dialogue' had major weaknesses: It lacked clear limits, restrictive actions remained limited to unilateral severing of ties; consensus among European member-states was weak, leading to inconsistencies especially in the handling of assassinations on European soil; and the EU was incapable of publicly presenting the policy in a way that would have insured an understanding for its objectives and successes. In effect the 'critical dialogue' became the catchword for a moral fig-leaf to cover lucrative commercial relations with the Mullah-regime in Tehran.

This paper clearly demonstrated that the 'critical dialogue' was, despite its weaknesses, a consistent European policy to influence both Iranian domestic and foreign policies. With the American policy of 'active containment' focusing mainly on alleged Iranian terrorist activities, its quest for weapons of mass destruction and its opposition to the Peace Process, the 'critical dialogue' was in fact the first comprehensive Western human rights policy towards Iran since the Iranian Revolution.

With the verdict in the *Mykonos*-trial and the following suspension of the 'critical dialogue', the European consensus and commitment to critical engagement was broken. It remains to be seen whether the newly declared 'comprehensive dialogue' will

follow its predecessor, i.e. whether European policy-makers will resist the temptation of reducing Euro-Iranian relations to bilateral economic cooperation.

If that were the case, the sharp and superficial critics of the 'critical dialogue' could have gained a Pyrrhic victory: in discrediting the 'critical dialogue' they have supported those arguing that a 'realistic' foreign policy should not involve human rights concerns. In retrospect, they should have engaged in criticising the inconsistencies of that approach and demand more tangible action rather than rejecting the policy as a whole.

The appeal of two Iranian authors, Abbas Maroufi and Faraj Sarkuhi, to resume a 'critical dialogue' with Iran, has been a late but important acknowledgement for the European critical engagement with Iran.³⁰³ Both writers have been subject to persecution in Iran, both live in exile, and both voiced the desire to return to an open Iran with a functioning civil society. Once 'business as usual' reigns Western-Iranian relations, there will be little space left in ministerial contacts to address serious violations of human rights, the fate of imprisoned or disappeared writers, the situation of the Baha'is, and the threats to the life of Salman Rushdie. If Western governments have been serious in their desire to influence Iranian politics, they should continue their efforts, even if tangible results will always be difficult to obtain.

In general, the core condition for change in Iran remains the willingness and ability of Khatami's government to deliver the improvements promised in the election. Change in Iran is essentially an internal development, external influence can only be exercised by conditioning *rapprochement* to change in Iranian policies, since domestic development is dependent on foreign investment and trade. Tangible results will be difficult to obtain, but a long-term strategy could trigger political liberalization, promoting in turn the re-integration of Iran into the international community. This process needs to be viewed critically to finally improve the living conditions of the Iranian people.

³⁰³ 'Eine echte Chance; Wandel im Iran: Der Schriftsteller Abbas Maroufi befürwortet die Wiederaufnahme des kritischen Dialoges mit dem Mullah-Regime, nur sollte er diesmal wirklich kritisch sein' (*A Real Chance; The Writer Maroufi supports to Resume Dialogue with the Mullahs*), *Die Woche*, 5.9.1997, p.28; 'Wer denkt, wird zwangsläufig politisch' fn.134.

* **Appendix**

TABLE 2: WESTERN EXPORTS TO IRAN 1991-1997 IN MILLION US\$³⁰⁴

	1991	1992	1993	1994	1995	1996	1997		
EU-Total	10.201.810	10.923.254	7.081.287	4.671.988	4.318.061	4.897.000	5.522.000		
Austria	376.034	384.060	300.135	240.075	133.822	n. a.	n. a.		
Benelux	400.634	378.891	298.776	263.297	251.751	280.200	307.100		
Denmark	190.610	169.708	169.884	81.582	83.562	n. a.	n. a.		
Finland	118.069	93.871	60.516	93.248	59.834	n. a.	n. a.		
France	894.227	744.610	765.659	818.043	566.061	672.200	738.200		
Germany	4.006.720	5.030.473	2.448.711	1.556.137	1.617.082	1.477.800	1.721.800		
Greece	19.382	24.879	14.297	9.109	4.946	n. a.	n. a.		
Ireland	15.927	20.344	29.806	53.238	58.944	n. a.	n. a.		
Italy	1.757.001	2.052.458	1.376.067	721.398	518.420	714.000	848.000		
Netherlands	455.334	429.917	311.955	206.910	245.047	235.500	275.714		
Portugal	12.264	23.014	8.706	5.748	20.938	n.a.	n.a.		
Spain	371.991	278.489	389.741	128.679	162.651	265.580	328.980		
Sweden	722.704	324.109	181.061	63.986	79.954	131.130	184.970		
United Kingdom	860.913	968.431	725.971	430.538	515.048	620.700	648.400		
Japan	2473.487	2664.923	1465.330	934.152	661.065	713.200	738.200		
United States ³⁰⁵	522.375	744.460	613.202	325.873	274.500	300	1.100		

TABLE 3: WESTERN IMPORTS FROM IRAN 1991-1997 IN MILLION US\$

	1991	1992	1993	1994	1995	1996	1997		
EU-Total	8.588.823	7.765.602	7.194.806	5.955.548	6.919.588	7.617.000	5.823.000		
Austria	164.391	123.112	84.398	84.139	47.074	n. a.	n. a.		
Benelux	1.101.974	1.036.612	35.111	74.322	65.516	95.800	49.500		
Denmark	18.234	18.163	25.903	14.788	17.684	n. a.	n. a.		
Finland	24.904	30.415	1.801	4.238	1.476	n. a.	n. a.		
France	1.340.433	1.089.734	1.501.061	1.034.063	1.374.500	1.274.300	925.800		
Germany	890.733	707.276	781.489	816.627	811.206	723.300	685.200		
Greece	625.507	699.037	764.081	509.927	467.988	n. a.	n. a.		
Ireland	244	1.165	1.486	1.296	1.938	n. a.	n. a.		
Italy	1.634.335	1.648.477	1.468.991	1.022.434	1.753.264	1.924.400	1.790.000		
Netherlands	1.173.375	1.404.033	1.329.298	991.206	750.405	738.477	644.698		
Portugal	204.479	134.044	70.184	362.320	342.568	n.a.	n.a.		
Spain	717.384	356.773	573.017	633.843	784.831	964.610	733.980		
Sweden	411.877	229.926	207.531	192.731	265.599	202.190	229.600		
United Kingdom	280.953	285.835	350.454	213.613	235.543	183.100	59.600		
Japan	2.781.424	2.610.390	2.449.440	2.772.834	2.824.072	3.255.600	3.523.900		

³⁰⁴ Data for 1991-95: Organisation for Economic Co-operation and Development (ed.): *Foreign trade by Commodities*, vol.1-5, 1995, OECD, 1998; Data for 1996- 97: Organisation for Economic Co- operation and Development (ed.): *Monthly Statistics of Foreign Trade*, January 1996-May 1998; Data on EU-Total 1996-97: *Eurostat*, fn.164; Data for Netherlands 1997: Centraal Bureau voor de Statistiek (ed.): *Maandstatistiek van de internationale handel*, vol.2, December 1997, Voorburg, Heerlen, 1997, p.15; Data for Italy 1997 according to Italian Ministry of Economics, quoted in: Lyons, U.S. Deeds Must Match Words', fn.270; Austria, Finland, and Sweden count for EU-total only since joining the EU on 1 January 1995; n.a. means data not available for these countries for 1996-1997.

³⁰⁵ Both American exports and imports were said to be higher than officially stated since they are handled in Dubai and do not appear in official statistics. In general U.S.-exports were estimated at \$1 bn for 1992, \$1,4 bn for 1993, and \$4,3 bn in 1994, while U.S.-imports were estimated at \$3,5 bn in 1992 and 1993, cf. fn.182.

United States	260.387	799	188	900	192	0	100
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TABLE 4: MAJOR EUROPEAN TRADING PARTNERS' EXPORTS TO IRAN 1991-1997

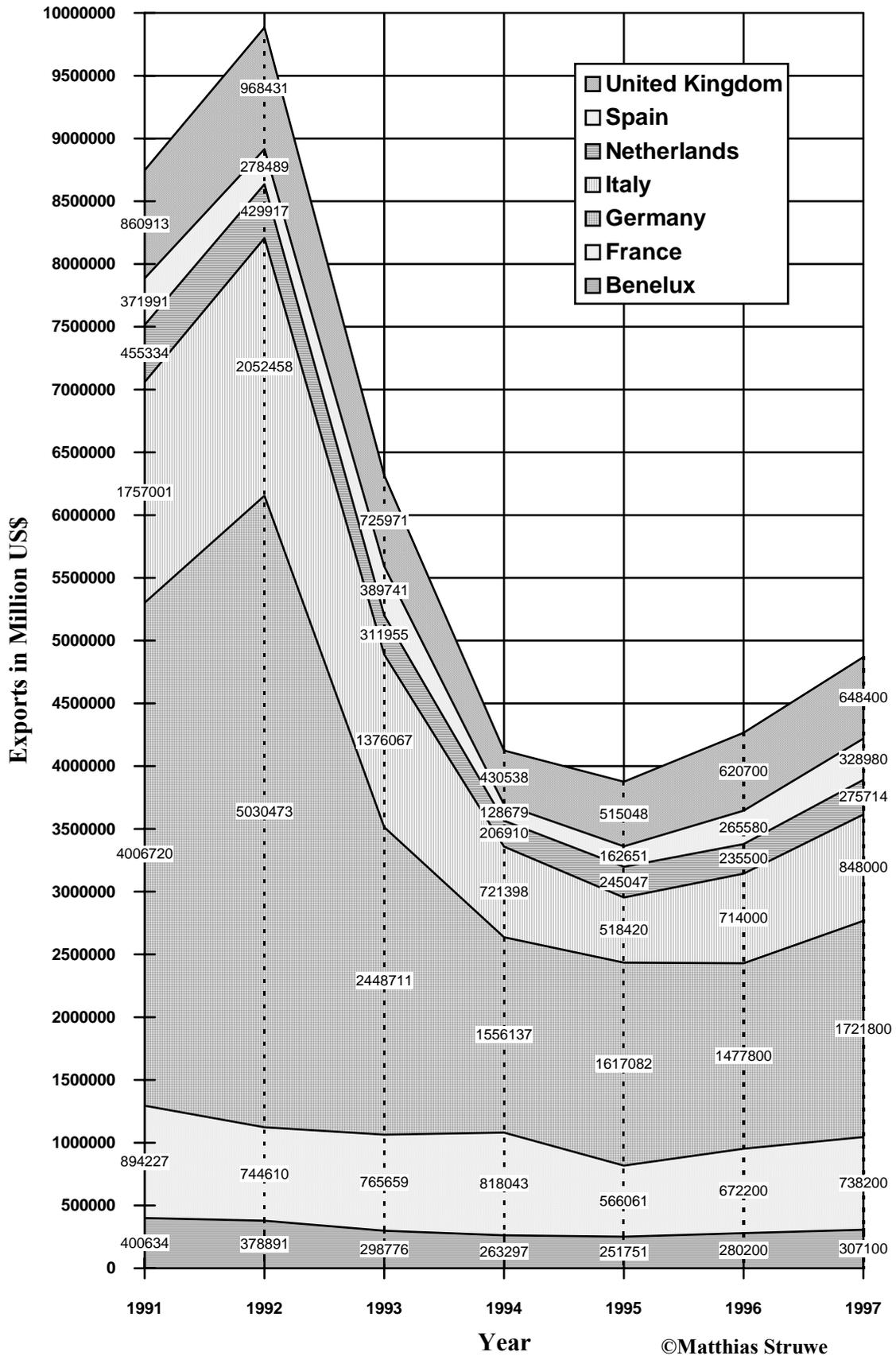
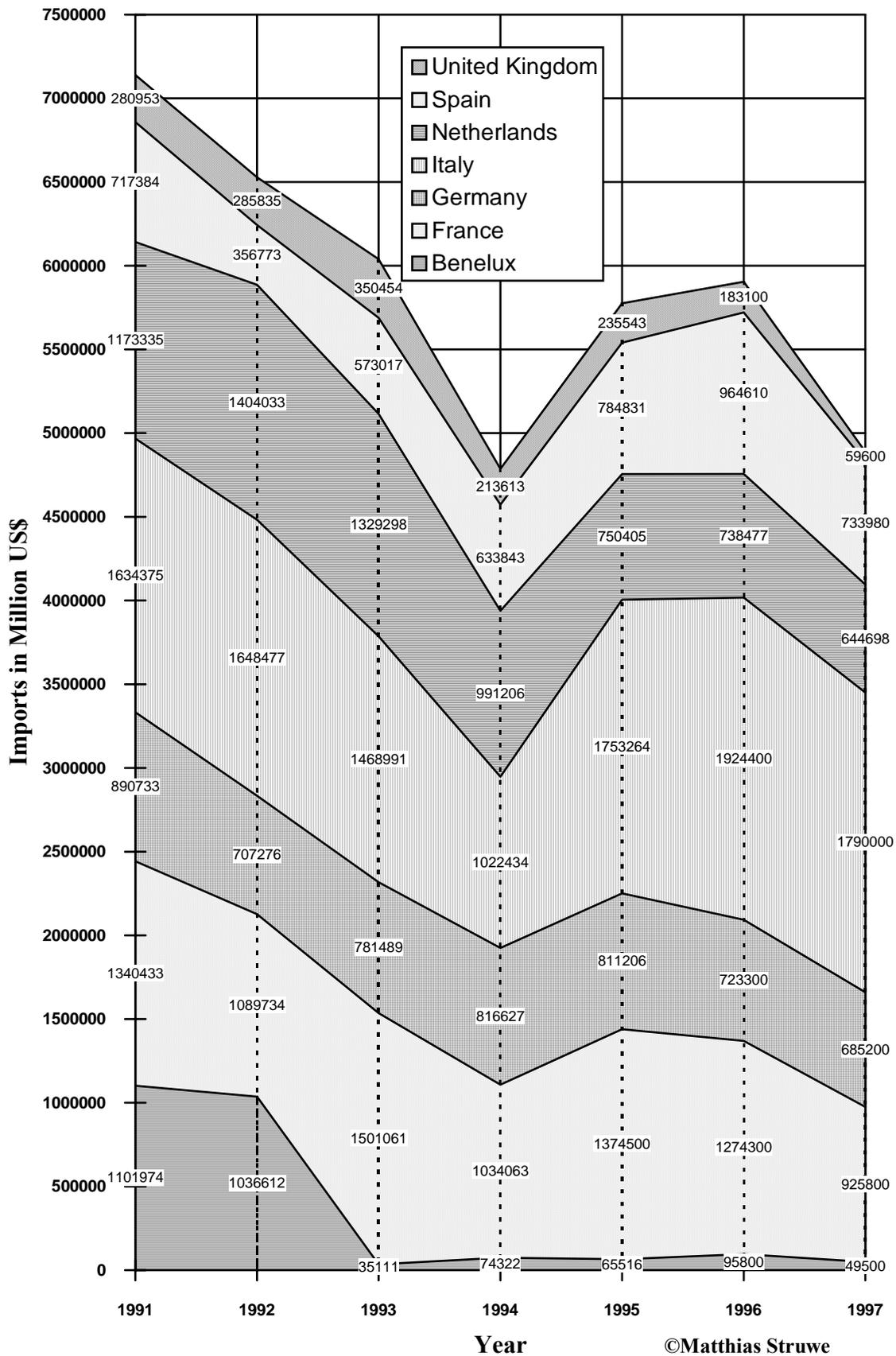


TABLE 5: MAJOR EUROPEAN TRADING PARTNERS' IMPORTS FROM IRAN 1991-1997



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