

IAEA Resolution on Iran's Nuclear Programme: The jury's still out but time is short

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The Play

The US Administration has, for some time, been pushing the International Atomic Energy Agency (IAEA) to declare Iran in 'non-compliance' with its Non-Proliferation Treaty (NPT) commitments, a move that would automatically refer the issue to the United Nations Security Council for their consideration and possible action. The Iranians had warned that a strongly- worded resolution would be contradictory to the Tehran declaration of 21 October 2003, and again implied that such a move might prompt an Iranian withdrawal from the NPT. The three European states (Britain, France and Germany) that had formulated the Tehran declaration with Iran did not want to jeopardize this agreement and stated that they would oppose such a move.

All indications were that it would be a serious showdown at the next IAEA Board of Governors meeting in Vienna. A resolution on Iran was expected to be adopted on Friday 21 November 2003, and rumours of a European draft resolution circulated in the media. However, by Friday afternoon it was clear that the Board could not reach an agreement, so it adjourned and went into an unprecedented four-day recess. Negotiations continued over the weekend, resulting in the United States lowering its demands. However, a senior western diplomat reiterated that, "there was never any disagreement [between the US and the Europeans] on the end state we're seeking", i.e. an Iran with no nuclear weapons.[1] After the weekend, the media reported that a new resolution had been drafted which bridged the divide.

The Resolution

On 26 November 2003, the IAEA Board of Governors adopted resolution 81 (2003) entitled 'Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran'. [2]

In its second preambular paragraph, the Board welcomed the Tehran declaration issued by Britain, France, Germany and Iran on 21 October 2003. However, further down the preamble, the Board expressed its deep concern, noting that, "Iran has failed in a number of instances over an extended period of time to meet its obligations under its Safeguards Agreement..." The Board was also gravely concerned by the fact that Iran had enriched uranium and separated plutonium in undeclared facilities; that Iran had indulged in a pattern of concealment of its activities; and that the new information disclosed by Iran included much more that was contradictory to the information previously supplied.

Importantly, the Board recognised, "the inalienable right of States to the development and practical application of atomic energy for peaceful purposes, including the production of electric power, with due consideration for the needs of developing countries", while at the same time, "underlining the vital importance of effective safeguards for facilitating cooperation in the field of peaceful uses of nuclear energy".

The Board adopted twelve operative paragraphs, which feature two decisions and two requests. It is important to note that the Board unanimously welcomed Iran's offer of active cooperation and openness, while at the same time strongly deploring the country's past failures and breaches of its obligations to comply with its safeguards agreement. It therefore called on Iran to take, "all necessary corrective measures on an urgent basis..."

Of particular importance is operative paragraph 8, since it outlines the procedure for eventual sanctions in the event that Iran fails to meet the requirements of the resolution. It reads "should any further serious Iranian failures come to light, the Board of Governors would meet immediately to consider, in the light of the circumstances and on advice from the Director General, all options at its disposal, in accordance with the IAEA Statute and Iran's Safeguards Agreement".

Finally, the Board decided "to remain seized of the matter".

The Board further requested the Director General to take all steps necessary to confirm that the information provided by Iran on its past and present nuclear activities is correct and complete as well as to resolve such issues as remain outstanding. To that end it requested that the Director General submit a comprehensive report on the implementation of the resolution by mid-February

2004. Iran is called to sustain full cooperation with the Agency in implementing its commitment to full disclosure and unrestricted access, and thus to provide the transparency and openness that are indispensable for the Agency to complete the considerable work before it.

The Reactions

The IAEA Director General Dr. Mohamed ElBaradei held that the integrity of the nuclear non-proliferation regime was, in no uncertain terms, affirmed by the resolution. He cautioned that the IAEA still, "have much verification work to do before we can provide the assurances expected by the international community" and that that verification work solely depended on Iran's full co-operation and transparency. He maintained that the success of the verification mission also depended on the agency getting full co-operation from all relevant countries, particularly those that were the source of some of the nuclear material and equipment in Iran.[3] Activities are expected to begin in the next few weeks. Dr. ElBaradei also held that, "any serious failures in the future by Iran to comply with its obligations will be met with an appropriately serious response", apparently referring to operative paragraph 8 of the resolution.[4]

The Secretary of the Supreme National Security Council of Iran, Mr. Hasan Rowhani, does not share the conclusions of the IAEA Director General. On 27 November 2003, he was quoted as saying, "we believe that Article 8 has no value and it contains nothing new". He fell short of saying that he believed that the resolution symbolised an American defeat, but nevertheless held that: "The US tried to include a clause in the resolution which would have allowed Iran's nuclear dossier to be referred to the Security Council automatically, but we announced that it was a violation of the Teheran Declaration and it didn't happen".[5]

Mr. Rowhani stated that Iran, "notices that there is no reference to the Security Council [in the resolution] and this shows that Iran has observed all outstanding issues". He continued to argue that Iran had voluntarily decided to temporarily suspend its uranium enrichment programme in order to foster confidence. And since the IAEA had not asked Iran to make any legal commitment in this regard, the Iranian government had the discretion to decide if and when to restart its uranium enrichment programme. Mr. Rowhani expressed the view that the "uranium enrichment issue is an important achievement, and it is a source of national pride for us, and we should continue it".[6]

The US Secretary of State, Colin Powell, welcomed the resolution.[7] He held that the resolution is an, "important step forward in the international community's efforts to prevent the proliferation of nuclear weapons". Meanwhile, US State Department spokesperson Richard Boucher summed up the US perception of the resolution at a press-conference and took the opportunity to caution the Russian Federation on its involvement in the Iranian nuclear programme. He said:

In sum, this resolution puts a requirement on Iran to cooperate in all the ways that it's promised and all the ways demanded by the Board of Governors. That would mean that governments who have programs or who have had programs with Iran would only want to cooperate within those guidelines.[8]

Iran is completing work on the Bushehr light water reactors (LWRs) with Russian help. It has been estimated by the Federation of American Scientist that the project employs some 900 workers and that the Iran-Russian deal to deliver two VVER-1000 reactors is possibly worth up to one billion dollars.[9] The Ministry of Foreign Affairs of the Russian Federation later issued a press release in which it stated:

It is important that the questions of ensuring the transparency of the Iranian nuclear program will continue to be dealt with in the framework of the IAEA with reliance upon its monitoring instruments. Accordingly, the adopted resolution determines the procedure for subsequent actions to be taken by the Agency to definitively clarify the questions still outstanding ... Russia expects that this work in the conditions of the new character of cooperation between the IAEA and Iran will continue to be carried out objectively, without unnecessary politicization.[10]

France, Germany and the United Kingdom, who engineered the agreed statement prior to the

meeting of the Board of Governors, also seemed pleased with the resolution. The UK Foreign Secretary Jack Straw stated:

I welcome this Resolution on Iran, adopted by consensus among the Board of Governors of the IAEA. It is an important step forward in the international community's efforts to prevent the proliferation of nuclear weapons ...The Resolution is the result of the intensive diplomatic consultations, which followed [the French, German and British visit to Iran]. We and our partners look forward to continued co-operation with Iran.[11]

From Paris, President Chirac indicated his satisfaction with the outcome of the IAEA Board meeting and said that the agreement, "goes in the direction of efforts made by the international community to convince the Iranians to take effective and durable measures necessary to restore confidence".[12]

The EU's foreign policy representative, Javier Solana, said he was "very happy" with what he saw as a European Union effort to curb the development of nuclear weapons in Iran through diplomacy.[13]

The Conclusions

It may be that the US Administration is waiting for IAEA inspections to reveal undeclared nuclear activities in Iran, and that it is hoping that such revelations may pave the way for Security Council involvement.[14] However, it seems apparent that the European initiative has, for now, succeeded in securing Iran's position as a NPT signatory and the adopted resolution is not counterproductive in this regard. It is now imperative that the inspection process be permitted to proceed without being tainted by political opinions that could effectively hamper Iran's current right under the NPT to develop its own peaceful nuclear energy policies.

A source of concern is operative paragraph 8 of the resolution. An immediate meeting of the Board of Governors is required if, "any further serious Iranian failures come to light". It is unclear who is authorized to make this appreciation. The IAEA naturally believes that it falls within its remit. But it remains unclear what kind of event it would consider 'serious'. Dr. ElBaradei stated that a "small piece of equipment would probably not be a serious failure. A lab working on nuclear activities would".[15] The statement is indicative, but hardly binding upon IAEA members. However, that interpretation fits well with the perceived objective of the resolution, which is the conduct of effective and meaningful inspections of Iran's nuclear programme.

It is possible that a state could claim 'a serious Iranian failure' and call for a meeting on the basis of its own intelligence sources, effectively undermining the verification process. In that regard, Dr. ElBaradei has stated that the agency wants to do its work without interference. In an interview with the New York Post he said: "I would like to ask the member states to sit back and relax".[16]

It is important that the Agency is allowed to work undisturbed. The situation is delicate, and the international community runs the risk that Iran, if pressured too much, could withdraw from the NPT. Such a drastic outcome would undermine the non-proliferation regime and further destabilize the entire region. It may, in the long run, also result in serious consequences for Iran itself.

The Director General has been instructed to submit a comprehensive report on the implementation of the IAEA resolution within two and a half months. It is doubtful, however, that the IAEA will be able to produce a fully comprehensive report within this timescale even if inspections start immediately. As Dr. ElBaradei said after the adoption of the resolution, "inspections take time ... Even if you have 1,200 people and \$1 billion, it can take over a year".[17] ElBaradei said he would send no more than 10 inspectors to Iran for the next phase of the verification process. Therefore, it is important that the Board of Governors does not abandon the consensus position adopted by the resolution. If the Director General requests more time to conduct inspections, that request should not be construed as a result of Iranian non-cooperation.

The Recommendations

1. All concerned parties should immediately provide Iran further incentives to remain on its course of transparency and cooperation, the most imminent incentive being the resumption of work at the Bushehr power plants by the Russian Federation and others. This would undoubtedly be aided by an unequivocal agreement for the return of spent fuel to Russia.
2. All concerned parties should exercise restraint in their relations with the IAEA and Iran for the duration of the implementation inspections.
3. It is of overriding importance that Member States recognize the fact that these inspections may take time, and that they must show patience with the inspection process.

Endnotes

- [1] George Jahn: "All Claim Victory in Iran Nuke Agreement", The Guardian, 25 November 2003.
- [2] IAEA Resolution GOV/2003/81 "Implementation of the NPT Safeguards Agreement in Iran", 26 November 2003
- [3] Opening Remarks at the Press Conference on the Outcome of the Board of Governors' Consideration of the Implementation of Safeguards in the Islamic Republic of Iran by IAEA Director General Dr. Mohamed ElBaradei on 27 November 2003.
- [4] Mark Landler: "U.N. Atom Agency Gives Iran Both a Slap and a Pass", New York Times, 27 November 2003.
- [5] "Iran to retaliate against pro-US IAEA members", IranMania News, 27 November 2003.
- [6] "Iran to retaliate against pro-US IAEA members", IranMania News, 27 November 2003.
- [7] See, inter alia, Louis Charbonneau: "Iran to escape U.N. nuclear rap", Reuters, 26 November 2003.
- [8] U.S. Department of State: Daily Press Briefing, Washington D.C., 26 November 2003.
- [9] Federation of American Scientists Bushehr Briefing, 11 October 2000.
- [10] Ministry of foreign affairs of the Russian Federation, Information and Press Department: Press Release" On the Adoption by IAEA Board of Governors of a Resolution on the Implementation of the Safeguards Agreement Pursuant to the NPT in Iran", 27 November 2003.
- [11] Foreign and Commonwealth Office Press Release: "Foreign Secretary Welcomes IAEA Resolution", 26 November 2003.
- [12] See, inter alia, "UN watchdog to condemn Iran nuclear programme but stop short of Security Council", Channel News Asia, 26 November 2003.
- [13] See, inter alia, Michael Adler: "IAEA not to threaten sanctions against Iran", Middle East Online 26 November 2003.
- [14] See "US lying in wait for more Iranian nuclear violations", Spacewar Wire, 27 November 2003.
- [15] Mark Landler: "Atomic Agency Warns Iran for Secrecy on Nuclear Activities", New York Times, 26 November 2003.
- [16] Ibid.
- [17] Ibid.