

The IAEA and Iran - Once More to the Brink?

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Background

On 14 June 2004 the IAEA Board of Governors^[1] will convene in Vienna, Austria, to hold their second meeting this year. The meeting is closed to the press. The main item on the agenda will be the fifth Agency report on Iran's nuclear programme, the tone of which is generally optimistic: "The Agency continues to make progress in gaining a comprehensive understanding of Iran's nuclear programme, but a number of issues remain outstanding".^[2]

The last IAEA resolution drew attention to a number of areas of concern, and extracted a defensive reaction from senior Iranian officials who argued that Iran should withdraw from the Non-proliferation treaty. They also reiterated the right of Iran to resume uranium enrichment at any time. Not surprisingly, the resumption of IAEA inspections was postponed for a month.

On 13 March 2004 the IAEA Board decided to "defer until its June meeting, and after receipt of the report of the Director General referred to above, consideration of progress in verifying Iran's declarations, and of how to respond to [established Iranian] omissions"^[3]. The November 2003 decision of the IAEA Board to immediately consider all options at its disposal (in essence, all involve referral to the UN Security Council (UNSC)) if any "further serious Iranian failures come to light" remains an open threat.^[4] It is important to note that any Iranian 'failure' has to be 'serious' to warrant the involvement of the UNSC. Will the latest Director General's report contain evidence of such failures?

The IAEA findings

The chronology in the 1 June IAEA report makes plain two indisputable facts. First, inspection activities were suspended for a month between March and April. The Iranians claim that this suspension was due to the Iranian New Year holidays. Second, while some inspections were carried out during the latest round of inspections, none took place at the strategically significant facilities at the Iranian Defence Industries Organisation. Inspection at these premises only started on 30 May 2004.^[5] Overall, these two delays look like Iranian defiance in the face of the rather serious IAEA resolution adopted in March.

On the other hand, it is a positive development that Iran continues to honour its commitment to halt uranium enrichment (although some Iranian officials are still likely to threaten immediate resumption of production).

The fact that centrifuge parts are still being assembled by private contractors is not particularly serious and is due to a perfectly valid reason (Iran is still trying to settle its contractual engagement with these entrepreneurs).^[6]

Two other issues remain particularly troublesome. First, the scale of the Iranian enrichment programme seems larger than initially declared. In its March report, the IAEA noted that it had found traces of uranium enriched to 36% U-235 in Iran. Iranian officials explained that the traces were imported with the equipment. In their June report, the IAEA finds that "the level of contamination suggests the presence of more than just trace quantities of that material" and that the imported components "are not the source of the 36% HEU, and that the 36 % HEU was introduced in the room ... in some other manner".^[7]

Second, the old Polonium-210 (Po-210) experiments are still very worrying. As BASIC has previously written,^[8] and which has been confirmed by the IAEA,^[9] Po-210 is used as an initiator in early nuclear weapons designs. Iranian officials have noted that "if the production and extraction of Po-210 were successful, it could be used in radioisotope thermoelectric batteries, as was the case in the SNAP-3 application (a US developed power source for use in space probes)".^[10] However, in "the view of Agency experts, the explanations provided by Iran thus far are not detailed enough and therefore not entirely adequate".^[11]

The complicating factor: the Iranian energy situation

The question at hand is whether the evidence reasonably supports the claim that Iran is or has

been developing a nuclear weapon. At the 2004 NPT preparatory committee meeting, the US delegate held that “Iran has concealed a large-scale covert nuclear weapons program for over eighteen years”.[12]

The US delegate also claimed that the Iranian reactor programme is “a remarkable venture for a country whose oil and gas reserves will last several hundred years”. This remark is disingenuous. While it is true that the Iranian reserve/production ratio in respect to natural gas is some 450 years, according to the World Energy Council, the Iranian reserve/production ratio for oil is a mere 71 years.[13] And it is the Iranian oil industry that brings in the hard currency. Today, according to an Iranian official, the country is “at a point of crisis brought about by skyrocketing energy consumption in transportation sector and the resulting excessive gasoline consumption and its expenditures.”[14]

Today, Iran consumes 36% of its oil domestically and if current projections of a 7% per annum increase hold: by 2010 domestic consumption of Iranian oil would be 58% of the total being extracted. Naturally, an increase of that scale (161%) would be devastating for an economy which depend heavily on oil revenues (around 80% of total export earnings, 40%-50% of the government budget, and 10%-20% of GDP in 2003).[15] Obviously, Iran needs an alternative energy supply and, not unlike many other emerging economies, the leaders in Iran have opted to develop a civil nuclear reactor programme.

Control of the nuclear fuel cycle

Ignoring for a moment the possibility of Iran seeking to meet its energy needs from other, mainly renewable energy sources[16], and instead, assuming that the case for developing a civil nuclear programme is a sound one, the key is to ensure that the peaceful application of nuclear energy is not converted into a nuclear weapons programme. One way to ensure this is to exercise external control over the nuclear fuel cycle, from the processing stage and onwards. Iranian officials have, on several occasions, emphasised that the international community is not legally entitled to force them to halt uranium enrichment activities. And that the suspension of this was a voluntary act of goodwill by Iran.[17]

It should be conceded that the development and subsequent control over the nuclear fuel cycle is not unlawful in the context of the nuclear Non-proliferation treaty. In fact, it may even be the inherent right of the non-nuclear weapon state to develop its own nuclear fuel production capacity. Several nuclear non-weapon states are involved in the front and back end of the fuel cycle. The first paragraph of the fourth article of the NPT reads:

Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with articles I and II of this Treaty.

The Iranian government staunchly defends its programme, stating that the use of “peaceful nuclear energy is Iran’s natural right and ... G-8 countries should not expect Iran to abandon this right”.[18] In its statement to the NPT review conference it held that the “proper implementation of this [right] has been hostage to political whims of providing countries without due consideration of the negative effects of their decisions on economic and technological development of other countries”. They also presented an argument with some strength, namely that the “NPT is a legal regime and ulterior political considerations should not have any role in the implementation of the rights and obligations emanating from it. Addressing the negative effects of political obstacles in the implementation of [these rights] should ... be one of the highest priorities ...”[19]

However, the legal existence of a right does not mean that the right itself is harmless or that all exercises of that right are legal. This is the core of the ‘dual-use dilemma’. For instance, in his testimony to the US House Committee on International Relations, Dr. Victor Gilinsky held that “the technology of most immediate concern today is uranium enrichment by centrifuge... . A commercial plant sized to supply the fuel needs of one standard reactor could be reconfigured quickly to produce enough nuclear explosives for 20 bombs per year.”[20] While it is true that Iran

has a right to develop nuclear energy, that right has to be exercised with due regard to its non-proliferation obligations (as formulated in the first and second article of the NPT). While it is legal to control the nuclear fuel cycle, it would be a show of trust, good faith and sound judgement to leave the production and reprocessing of nuclear fuel in the hands of the declared nuclear weapon states for the time being. In fact, Iran has indicated that it is ready to do this under two conditions. First, it needs to ensure that the supply of nuclear fuel is steady and reliable. Second, it wants renewed western investment in its petrochemical industry.[21] Obviously, the United States is not willing or ready to meet these two conditions, but the European Union and the Russian Federation might be.

The G-8 and the resumption of the Iranian reactor programme

On 8 June 2004, the G-8 issued a statement in which they deplored “Iran’s delays, deficiencies in cooperation and inadequate disclosures”. An Iranian official quickly dismissed the statement as illogical and stated that “Iran has shown its full commitment to the non-proliferation of atomic weapons in practice and its wide and transparent cooperation with the International Atomic Energy Agency (IAEA) is proof of that”.[22]

The Russian Federation is heavily engaged in the Iranian reactor programme, and active Federation cooperation is crucial for its resumption. At the 2004 NPT preparatory committee the Russian delegation plainly stated that the “situation with the Iranian nuclear programme is not an easy one, although some progress is in evidence”.[23] The Federation is closely observing the behaviour of Iran. At the G-8 summit, a Russian official said, “we have cooperated and will cooperate with Iran, but the scale of this cooperation will be determined by the way Iran interacts with the IAEA” and that the construction of the nuclear power plant in Bushehr “will be continued once all questions have been dealt with”.[24] How this sits with their G-8 Action Plan on Non-Proliferation commitment to “refrain for one from initiating new transfers of enrichment and reprocessing equipment and technology to additional states” is far from clear. Presumably, Russia’s cooperation with Iran will not be regarded as “new transfers”, and if given a clean bill of health from the IAEA, Iran would also not be judged to be a state seeking to manufacture nuclear weapons.

Conclusions: nothing much has changed since March 2004

There are different views amongst states and within the arms control community as to whether the present evidence amounts to a “serious” Iranian failure to meet its NPT obligations. One view stresses that the evidence clearly points to a nascent Iranian nuclear weapons programme, while another views the evidence as circumstantial at best. However, after a careful examination of the evidence presented in the latest and earlier IAEA reports, the following conclusions can be drawn:

- There is no evidence that Iran presently is developing nuclear arms in violation of its NPT obligations. There are no indications of ‘large scale’ nuclear weapons activities in Iran.
- There is weak and circumstantial evidence that supports a conclusion that there has been a nuclear weapons programme in the past. The Po-210 experiment, which has very limited civilian application and the small plutonium experiments, indicates that the Islamic Republic during the late 1980s and early 1990s conducted nuclear weapon feasibility studies.
- The onus remains with the Iranian government to show that the past experiments were, in fact, peaceful.

The present evidence does not point to a ‘serious failure’ by Iran to honour its NPT commitments. The IAEA Board should not, therefore, refer the question to the UNSC at this stage. However, when the current round of IAEA investigation are concluded, questions of past Iranian transgressions are likely to linger in the air. These questions need to be addressed. An Iranian breach of its obligations, even if occurred some ten years ago, would not be healed over time

- since the lessons learned by the Iranian scientists cannot be unlearned. Therefore, if an established breach some ten years ago is confirmed, it should still be brought to the attention of the UNSC, as provided in the Statute of the IAEA. There should be no statute of limitation on breaking NPT commitments.

However, if it is also conclusively established that the Islamic Republic presently is not developing nuclear arms, the UNSC needs to reflect that fact. Past Iranian breaches should not warrant present economic or military sanctions. At most, the UNSC should strongly condemn Iranian transgressions and then move on to other, more pressing, agendas. A condemnation would, however, serve as warning for states that currently aspire to develop nuclear arms unlawfully.

Policy Recommendations

- Iran must give an unequivocal guarantee not to resume its uranium enrichment programme. This is a question of goodwill and not one of law. If the Russian Federation guarantees the supply of nuclear fuel and agrees to take responsibility for the spent fuel, there is no real need for a separate Iranian programme. It may be argued that a domestic enrichment programme would be a sign of Iranian technological prowess, but issues of national pride should not be placed above the peaceful relations of nations. In any case, there are plenty of other ways for Iran to demonstrate its strength of national character and intellectual prowess.
- Iran must take definitive and verifiable steps to separate its civil nuclear programme from its military establishment. This is a key recommendation. There may be budgetary benefits to keeping nuclear research under a military umbrella. But military involvement in the programme reinforces western perceptions of Iran as a country which is evading its NPT obligations.
- Iran must without delay commence parliamentary procedures with a view to ratifying the IAEA additional protocol. The Iranian parliament should not use the ratification question as a political tool for pressurising the IAEA. Such tactics by the Majlis is unlikely to impact on the Agency's impartiality and will only reinforce adverse perceptions of Iran.
- The United States should present convincing evidence to back up its, so far unsubstantiated, claim that a 'large-scale Iranian nuclear weapons programme' exists. Public confidence in US intelligence and its general conduct in the region are at an all-time low. Single source material provided by Iranian dissidents about an alleged nuclear weapons programme may not be reliable. If no evidence in addition to IAEA findings exists, the United States should desist from its claims.
- The European Union should start negotiations with Iran regarding investments in the Iranian energy sector, with an emphasis on support for oil extraction development, oil refinement technologies, and renewable energy technology transfers, in exchange for enhanced cooperation with IAEA safeguards.
- The IAEA Governors should grant the Director-General an additional three months (to the next Board meeting on 13 September 2004) to verify that the Iranian nuclear programme is intended solely for peaceful purposes.
- The IAEA Secretariat should prioritise its inspections in Iran with a view to closing the Iranian file by 13 September 2004. To do so, Iran needs to further intensify its cooperation. Even if it means more inspections, more inspectors and higher costs, it is in the IAEA's own interest to close the file on Iran at the earliest possible date. The IAEA should therefore double its efforts to verify that the Iranian programme is peaceful, and Iran should no longer delay the inspection process, for whatever reason.
- The IAEA Board of Governors should reinforce its message to Iran that any confirmed and serious past and present breaches of the NPT will be sent to the UNSC for consideration. As Iran says itself, the NPT is a legal regime which requires an objective and impartial analysis of the evidence at hand. It also means that all transgressions should be punished to some degree. This is a question of the NPT's credibility.

Endnotes

- [1] Member States represented on the IAEA Board for 2003-2004 are Argentina, Australia, Brazil, Belgium, Canada, China, Cuba, Czech Republic, Denmark, Egypt, France, Germany, Hungary, India, Italy, Japan, Republic of Korea, Malaysia, Mexico, Netherlands, New Zealand, Nigeria, Pakistan, Panama, Peru, Poland, Russian Federation, Saudi Arabia, South Africa, Spain, Sudan, Tunisia, United Kingdom, United States, and Vietnam
- [2] IAEA Director Generals report entitled 'Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran', GOV/2004/34, 1 June 2004, Restricted Distribution
- [3] IAEA GOV/2004/21, operative paragraph 9
- [4] IAEA GOV/2003/81, operative paragraph 8
- [5] See for instance IAEA GOV/2004/14, paragraph 4-8, 21 and 40
- [6] See IAEA GOV/2004/34, paragraph 40
- [7] IAEA GOV/2004/34, Annex 1, page 3, paragraph 25 in fine and 27.
- [8] BASIC Note 5 March 2004, <http://www.basicint.org/pubs/Notes/BN040305.htm>
- [9] See IAEA GOV/2004/34, Annex 1, page 3, paragraph 17 in fine
- [10] See IAEA GOV/2004/34, Annex 1, page 3, paragraph 18. SNAP-3 was an Atomic Energy Commission (AEC) project. This concept was never used in a space mission. It did pave the way for the eventual launch of SNAP-3B, which used Plutonium-238 as fuel (Plutonium-238 has a half-life of 87.7 years). Another, less dramatic, civilian application of Po-210 is to reduce the static charge in the production of photographic film and other materials.
- [11] Ibid
- [12] U.S. statement to the 2004 NPT Preparatory Committee, delivered by under-secretary of state John R. Bolton on 27 April 2004,
- [13] Iran - Extract from the Survey of Energy Resources 2001, World Energy Council, 2001
- [14] 'Iranian official: Gasoline imports may top dlr 7bn by 2010', Payvand, 3 January 2004.
- [15] U.S. Energy Information Administration, Country Analysis Brief, Iran, November 2003
- [16] There has been some discussions between the EU and Iran on renewable energy, see Eu/ Iran: Development Of Energy Co-Operation, Europe Energy Working Group, 29 October 2002
- [17] 'Iran's Nuclear Program Completely Transparent', Merh News Agency, 7 June 2004
- [18] 'Iran Warns G8 It Will Not Halt Nuclear Program', Reuters, 10 June 2004
- [19] Iranian statement to the 2004 NPT Review Conference, delivered by H.E. Gholam Ali Khoshroo on 27 April 2004
- [20] 'The nuclear fuel cycle and the spread of the bomb', testimony of Victor Gilinsky, House Committee on International Relations hearing on "The Bush Administration and Non-proliferation" 30 March 2004
- [21] BASIC discussions with Iranian officials during May 2004.
- [22] 'Iran Warns G8 It Will Not Halt Nuclear Program', Reuters, 10 June 2004
- [23] Russian Statement to the 2004 NPT Preparatory Committee, delivered by H.E. Anatoly Antonov on 27 April 2004
- [24] 'RUSSIA to continue nuclear cooperation with Iran', Interfax, Moscow, Russia, 9 June 2004