



UNISCI Discussion Papers

IRAN GOING NUCLEAR?

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Introduction

Reviewing the technical and legal aspects it could easily be concluded that the international community has been, to a great extent misled with bias, politicized and exaggerated information on Iranian nuclear programs and activities.

Iranian nuclear issues, which should have been dealt in a purely technical manner within the framework of the IAEA, have been politicized. In order to divert the attention of international community from the immediate and serious security concerns as the result of the violation of article VI of the NPT: existence of a huge number of nuclear warheads; recent development in manufacturing new types of nuclear weapons by two Nuclear Weapon States and last but not the least the potential nuclear threat by Israel, being the only non-party to the NPT in the strategic region of Middle East.

While appreciating the tremendous constructive work by the IAEA, and sincere attempts by Director General Dr. El Baradei in resolving the issues, Iran has however serious concerns about the misunderstandings, confusions, misperceptions and the underestimation of great progress so far made by a few members of the Board of Governors trying to remove the purely technical issue from the framework of the Agency. They are trying to underestimate the authority of the Agency by asking instructions from another international body. This undoubtedly is in contravention of the IAEA statute which considers the IAEA an independent pertinent body in the area of nuclear energy and its authority is already inherited in the Statute. Any attempt in this respect is endangering the multilateralism. This paper is prepared with the aim of removing possible ambiguities on the Iranian nuclear activities, using the facts reflected in the various IAEA documents, inspection reports, particularly the Director General's reports to the Board of Governors.

¹ *Las opiniones expresadas en estos artículos son propias de sus autores. Estos artículos no reflejan necesariamente la opinión de UNISCI.* The views expressed in these articles are those of the authors. These articles do not necessarily reflect the views of UNISCI.



1. Short Review of Iran's Past, Present and Future Nuclear Policy & Programs

Iranian Nuclear activities started by the establishment of the Atomic Center of the Tehran University and the construction of 5MW research reactor, with 93% enriched fuel, by an American company called AMF which started its operation in 1968. It has to be noted that two other identical reactors were also constructed by Americans in Pakistan and Turkey almost simultaneously.

The Atomic Energy Organization of Iran (AEOI) was established in 1974. The AEOI was mandated to plan for and work on the complete fuel cycle including the production of 23000MW electricity by nuclear power plants. The AEOI took over the Atomic Center including its 5 MW research reactor. The center was then called the Nuclear Research Center (NRC). Iran concluded an extendible ten year nuclear fuel contract with US in 1974, with Germany in 1976, and with France in 1977.

Western countries were competing with each other in bids on nuclear fuel cycle, including enrichment, with Iran.

It has to be recalled that in 1975, Iran purchased a 10% share in a Eurodif uranium enrichment plant being built at Tricastin in France that was part of enrichment technology Eurodif developed, and agreed to buy a quota of enriched uranium from the new plant. The Shah also gave one billion dollars as financial aid to the said company but Iran has not received even a gram of uranium from the plant, which it desperately needed for its reactor producing radioisotopes for mainly medical purposes.

The question of justification of choosing nuclear energy as an option for Iran which had natural gas and oil resources was never raised.

Considering the facts that since 30 years ago the population of Iran is doubled, the price of oil has drastically increased, vast application of by-products of oil which are produced in petrochemical industry and finally the IAEA reports on technical and financial justification of nuclear energy in contributing to national energy supply (*Power System Expansion Planning by WASP*), there is no doubt that a double standard with a purely political intention is imposed on the Islamic Republic of Iran.

The Iranian parliament has approved the production 20,000 MWe from nuclear energy by the year 2020. The future planning is based on the fact and figures such as:

- The average increase in electricity demand of 8.37 p.a. in the past two decades;
- Over 91% electricity generation was based on fossil fuel during past two decades;
- Merits in processing of fossil fuel instead of burning it in electric plants (Petrochemicals ...);
- Probable further increase in prices of fossil fuel in the coming decades;
- Advantage of nuclear energy with respect to the environmental impact (Pollution, Greenhouse Effect).



Bearing in mind the past bitter of experience of lack of legally binding assurance of supply and the huge investment on indigenous nuclear fuel cycle, the achievement in this field during 25 years of deprivation and sanction, Iran has to continue its activities on nuclear fuel cycle under the IAEA Comprehensive Safeguards.

1.1. Non-proliferation policy after the victory of the Islamic Revolution in Iran

The NPT entered into force in Iran in 1974. It was followed by the comprehensive Safeguards Agreement (INFCIRC/214 based on the model agreement INFCIRC/153). After the victory of the Islamic Revolution in 1979, the late Supreme Leader and the Founder of Islamic Revolution deplored the nuclear weapons in different occasions in his public addresses. If Iran had the intention to work for nuclear weapons, it should have withdrawn from NPT then. The justified time for withdrawal was immediately after the victory of the revolution, since an overall critical review of all multilateral or bilateral agreements and treaties concluded during last regime, was logical and digestible for the international community. Iran decided to sustain its membership and compliance with NPT safeguards and the IAEA Statute. During the last 26 years the Islamic Republic of Iran has spared no effort in cooperating with the Agency within the framework of its NPT Safeguards obligations. Iran is the only Member State which voluntarily invited, in late 80s, the IAEA safeguards inspectors, headed by the DDG, to visit all sites and facilities at their discretion, even those locations not declarable under the Safeguards Agreement. In addition Iran is implementing the Additional Protocol since December 2003, as if it has been ratified.

1.2. The impacts of international developments on Iranian nuclear policies:

The international developments, particularly the following ones, have had serious impacts on Iran's nuclear policy, planning and activities:

- The UN General Assembly adopted a resolution in 1980 to convene the United Nations Conference on the Promotion of International Co-operation in peaceful uses of Nuclear Energy (UNPICPUNE). The conference was mandated to identify constraints and propose ways and means for the promotion of international co-operation in this area... It has to be recalled that the said UN conference was considered so vital for the developing countries that a special preparatory conference of the Non-Aligned Movement (NAM) was held in Havana, Cuba in 1983. After almost a decade of preparation and negotiation, finally the conference was held in Geneva in 1987, but as the result of creation of obstacles by some industrial countries, particularly by Western Nuclear Weapon States, it failed to adopt any conclusion.
- Similar event occurred in the IAEA, where its Committee on Assurances of Supply expected to establish internationally recognized principles and legally binding instruments to assure sustainable nuclear supply failed in 1987 after 7 years of intensive deliberations.
- Technical Co-operation (TC) activities of the Agency which is an important statutory function and has direct relation to developing countries, is funded by the voluntary contributions while the Safeguards activities are funded through regular budget of the



IAEA. During the last three decades the developing countries have called for rectifying the situation and establishing an assured and predictable mechanism for the IAEA Technical Co-operation. This legitimate expectation has not yet been fulfilled due to objections of few developed Member States including some Nuclear Weapon States. Their intention is that the Agency be merely a *watchdog institution* where its statutory promotional function be gradually diminished. In a number of occasions the donors have threatened to halt or decrease voluntary contributions on bilateral political grounds.

- US was obliged under the contract made prior to 1979 to supply new fuel for Tehran 5 MW Research Reactor, being under the Agency comprehensive Safeguards, producing radioisotope for application in medicine, agriculture and industry. It neither gave the fuel nor the two million dollars received for it.

Iran had projects with the IAEA on radioisotope production using this reactor. None of the international organizations including the IAEA took any step in redressing the situation and forcing the US to fulfil its contractual and legal obligations which had impeded the peaceful application of nuclear energy.

Considering the aforementioned developments which prove the assertion of the lack of implementation of promotional pillars of Statute of the IAEA as well as provisions of the Article 4 of NPT along with continuous sanctions by certain countries, the Islamic Republic of Iran had no choice other than to depend on its own resources and manpower in order to exercise its inalienable rights to use nuclear energy for peaceful purposes.

2. Short review of developments prior and after Iranian political nuclear dispute

Dr. El Baradei, the Director General paid his first visit to Iran in the year 2000 where he was thoroughly informed about the intention of AEOI in undertaking certain activities in the field of nuclear fuel cycle technology and construction of their facilities such as the Uranium Conversion Facility (UCF). Although Iran then had not yet adhered to the newly modified Subsidiary Arrangement, nevertheless it had already willingly submitted the DIQ of Uranium Conversion Facility in Esfahan and other activities on nuclear Fuel Cycle. The Agency received the DIQ of UCF in 2000 that is almost 4 years before Iran was obliged to inform the IAEA under its comprehensive Safeguards Agreement (INFCJRC/214). Therefore the notion of the revelation of undeclared activities such as UCF or concealment is absolutely incorrect. The Director General was again invited to Iran in 2003 where he visited uranium centrifuge enrichment pilot plant (PFEP) at Natanz on 21 February 2003. In his meeting with the Iranian president, he congratulated the scientific achievement. He suggested to Iran to concur with the modified Subsidiary Arrangement and to sign the Additional Protocol. The President gave affirmative response regarding the Subsidiary Arrangement and invited the Agency's experts to explore various technical, legal and security dimensions of the Additional Protocol in order to pave the way for decision-making process.

There was no doubt for the Director General that the establishment of uranium enrichment facility is not in contravention of the Safeguards obligations and Iran was not obliged to submit the Design Information Questionnaire (DIQ) of the Enrichment Facility in Natanz prior to the visit since according to the comprehensive Safeguards Agreement



(INFCIRC/214), Iran has to submit the DIQ only 180 days prior to the introduction of nuclear material to the facility.

At the meeting of the Board of Governors in March 2003, after DG visit to Iran, the governor of Greece in his statement on behalf of the EU, took note of the important development that the Iranian authorities had agreed to amend the Subsidiary Arrangements of the country's Safeguards Agreement, committing it to providing early design information on relevant facilities (that is Iran was not legally obliged to do so before). At the same meeting, the UK governor said "while the amendment of Iran's Subsidiary Arrangements following the Director General's visit was welcomed, if they had been amended earlier, Iran would have been required to provide early notification of the enrichment facility". Therefore Iran had no legal obligation to notify the IAEA about the enrichment facility at Natanz earlier. In fact the Agency became fully aware much sooner than Iran was obliged to report in accordance with its comprehensive agreement, since the Pilot Fuel Enrichment Plant (PFEP) was not fully operational then and even now after about two years is still not operational.

Iran permitted the Agency's inspectors to take environmental samples from the PFEP after DG visited. The results of the analysis indicated the presence of low and high enriched uranium (LEU & HEU) particles. The results created an ambiguity since the PFEP did not have the capability for such enrichment. Therefore Iran decided to share with the IAEA, the highly confidential information regarding the deal on centrifuge components with foreign intermediaries, responsible for delivering used and contaminated items instead the expected brand new ones. Iran declared that the sources of such LEU & HEU are outside of Iran.

The information on sample analysis results which required further time consuming technical analysis became an issue to be dealt with in diplomatic circles at Agency headquarter and the Board of Governors. Such delicate confidential information was immediately released to the media. Therefore a purely technical issue at its preliminary analytical stage was used as fuel for political confrontation by a certain country trying to create a dispute in order to justify removal of the issue from the framework of the IAEA, the sole pertinent international organization. In other words, it was determined to impose its unilateral policy though had in other occasions been universally condemned.

The following examples will prove that the exaggeration and continuous allegations such as the 18-year concealment of nuclear activities such as uranium conversion are baseless:

1- According to the comprehensive safeguards, the uranium ore concentrate known as "yellow cake" is not subject to any safeguards procedures other than the notification of imports and exports referred to in paragraph 34(a) and (b) of the Safeguards Agreement. Iran had imported 530 tons of this material and informed the Agency. Although such materials are pre Safeguarded, but this material has been fully verified by the Agency in 1998. The DIQ of the Uranium Conversion Facility (UCF) has been submitted to the Agency in 2000 that is sooner than being obliged to. Iran had during last 26 years used total of only 57 kg of such materials in several laboratory scale researches, some as student thesis. In several occasions the results of these researches were published, presented at international conferences and even reflected in the IAEA fellowship application forms. Despite of full transparency and the minute quantity of natural uranium used in the R&D, the political circles made a big noise out of it.



However, after almost two-year political tension, the Agency declared that uranium conversion activities will be followed a routine safeguards implementation manner (Para 6 & 43 of *GOV/2005/67*).

2- Total amount of Plutonium separated in the research activities is estimated by the Agency to be about 200 milligrams, while it has to be noted that tons of plutonium are continuously produced and separated by both Nuclear Weapons States as well as the Non-Nuclear Weapon States Parties to the NPT.

As reported by DG the Plutonium research project was terminated in 1993. The dismantled equipment was presented to the Agency's inspectors. It has to be recalled that the lack of clear technical distinction of the Plutonium production, separation and purification in one of the previous reports to the Board of Governors created great misunderstanding for non-technical and political circles.

2.1. Sustained and proactive cooperation of Iran with the IAEA and International community

a- Iran has had close collaboration with the IAEA even beyond its legal obligations (such as granting access even to military sites, facilitating interviews with several individuals, implementing the Additional Protocol as it has been ratified, providing non safeguards relevant information, voluntary suspensions...).

b- Iran intensified multilateral diplomacy with the Agency's Member States, members of Non- aligned Movement and European Union, China, Russia and other members of the Board of Governors.

c- Iran has proactively cooperated with the Agency in an extra-ordinary manner during the last two years with almost continuous inspections, amount to over 1300 man-day inspection, which is unprecedented in the history of the IAEA.

d- In an historical and unprecedented gesture, Iran decided to voluntarily and temporarily suspend its enrichment and reprocessing activities in order to give the Agency opportunity to perform its technical activities including sampling and analysis of the contaminated samples at Natanz.

e- The Director General in his report to the Board of Governors confirmed that "Since December 2003, Iran has facilitated in a timely manner Agency access under its Safeguards Agreement and Additional Protocol to nuclear materials and facilities, as well as other locations in the country, and has permitted the Agency to take environmental samples as requested by the Agency".

f- The Director General informed the Board that "Since October 2003, Iran's cooperation has improved appreciably".

The following major measures by Iran are the basis of his assessment:

- Signature of the Additional Protocol on 18 December 2003;



- Voluntary provisional implementation of the Additional Protocol, from 18 December 2003, prior its ratification, as if Iran has ratified it;
- Complementary access (more than 20) in accordance to the Additional Protocol, in many cases with 2 hours notice or less.
- Full and unrestricted access to all nuclear material and all facilities, in particular to the Enrichment Facility at Natanz, Uranium Conversion Facility (UCF) at Esfahan;
- Provision of detailed information in connection with the imports of nuclear material and components related to the centrifuge and laser enrichment activities;
- Providing full detail information on the chronologies, activities, researches, progress reports regarding the enrichment activities, uranium conversion, plutonium separation, mining and milling, research reactor, heavy water production; .
- Providing accesses to military sites following the allegations by a certain country and the opposition terrorist group supported by it. The inspection proved the allegations to be baseless.
- In October 2003, the Agency was granted to visit the military industrial complex ca/led Kolahdouz that had been announced by terrorist group (MKO, NRCI) as relevant to enrichment activities. Following its inspection, the Agency reported in para49 of *GOV/2005/67*: The results did not reveal any indications of activities involving the use of nuclear material.
- In June 2004, the Agency was granted to visit the military complex of Lavisian-Shian where the Agency took environmental samples. As DG reported in Para 102 of *GOV/2004/83*: “ ...the vegetation and soil samples collected from the Lavisian -Shian site have been analyzed and reveal no evidence of nuclear material “.
- In January 2005, free access was granted to Parchin Military site.
- Environmental samples were taken. The Director General then reported that the results showed no indication of presence of nuclear material and that the Agency's inspectors did not see any relevant dual-use equipment or material.
- Beyond obligation and normal practice, permission was given for transferring parts of equipment (laser collectors, Pu discs,..) and samples of materials for analysis (destructive & non-destructive) to the Agency laboratories, in addition to the environmental samples (swipes);
- Provision of information on Heavy water Production Plant, prior to the provisional implementation of the Additional Protocol, where Iran was not yet obliged to do so under its comprehensive Safeguards Agreement (*INCIRC/153*).
- Submission of more than 1000 pages of the initial declarations of the Additional Protocol on 21 May 2004 and subsequently routinely updated the declarations, which have been verified by the Agency.



2.2. IAEA's Performance since the political dispute started

The Agency performance could be evaluated on the basis of the functions and decisions of the Board of Governors and the Secretariat in brief as follows:

1- Under the political pressure of few western countries, the Board of Governors was in many cases politicized to the extent that the technical issues were sacrificed and resolutions were mostly beyond the letter and spirit of the Agency's Statute and the NPT. The comparison between the deliberations of Iranian nuclear case and others, by the Board of Governors in this period, will support the assertion that Iran has been discriminated and this technical international body has to great extent been politicized. The historical positions and criticism of the countries of Non-Aligned Movement (NAM) during the meeting of the Board of Governors as well as the 48th Session of the General Conference is a clear indication of the unjustified status quo .

2- The phrase "Concealment" which was first used by US and later by Secretariat in its reports, is absolutely incorrect and misleading. Lack of reporting of the activities such as establishment of nuclear facility which Iran was obliged to inform the Agency through DIQ form under its Comprehensive Safeguards Agreement (INFCIRC/214), only 180 days before the defined nuclear material are feed in, is not a concealment. It has to be recalled that when some of the activities and design and construction of facilities started, the Additional Protocol even did not exist!!

Even if the construction of the Bushehr Nuclear Power Plant started almost 25 years ago, Iran was obliged only to report its existence and give specification only 180 day before nuclear material (the fuel) is received in the reactor. The same is applied to other facilities such enrichment plant at Natanz, uranium conversion plant (UCF), which the Agency was informed about even four years before Iran was obliged to do so. It has to be noted that the Safeguards Implementation Reports (SIR) of the Agency includes a lot of failures by other Member States which have not been highlighted. Last but not the least is the fact that the Agency is legally neither in position nor it could judge the intention of Member States thus the use of the concealment phraseology is out of context. The Secretariat is mandated to verify the declaration of the State Parties by technical means.

3- Although the Secretariat intended and tried to behave impartially and within the provisions of the comprehensive Safeguards and the Additional Protocol but in a number of cases acted beyond them demanding Iran to provide information or to grant access where Iran was not obliged either under the provisions of the comprehensive Safeguards or the Additional Protocol, but under the pretext of the cooperation and transparency requested by the Board of Governors.

4- In few cases where Iran was not in position to fulfil the extraordinary requests due to logistic, time constraint or national security concerns, the Secretariat did reflect the issue to the Board of Governors as if Iran had not fulfilled its legal obligations. The few members of the Board of Governors have to be blamed for opening a new chapter of unprecedented activities for the Secretariat such as the non-technical intelligence activities working on networks which are beyond the Statute.

5- In many cases conclusions were made and reported to the Board of Governors, before sampling, analysis and technical investigation be completed. Several resolutions were passed against Iran based on premature information particularly on contaminations in spite of



repeated request by Iran in refraining to conclude hastily before the technical investigation is over. The confirmation (Para 12 & 45 of GOV 12005/67) of the Iranian repeated assertion of the foreign source of uranium contamination proves this claim. Iran did reflect its inconveniences on such shortcomings in documents INFCIRC/628 and INFCIRC/630 as well as the statements at the meetings of the Board of Governors .

6- Since the terms “*transparency*”, “*full cooperation*”, “*completeness of information*”, are not defined as far as the scope and limits are concerned, sometimes lengthy debates are made in order to convince individual inspectors, where in the majority of cases that the terms are well defined in the Safeguards Agreement and the Additional Protocol inspections are smooth and effective.

7- In fact the proponents of the resolutions using new terms have to be blamed. Although many Member States have often admired the patience and cooperation of Iran in this regard, they have already expressed serious concerns that such practices might turn into new precedence in terminology of the legal obligations in particular Agency's Safeguards.

8- In its reports to the Board of Governors and to the international media, the Secretariat has not duly reflect the full cooperation of Iran in granting access to several military sites and the fact that the allegations by US and terrorist groups have been proved to be baseless .

9- It has to be recalled that in one occasion when it was proved that the Secretariat had made a mistake in concluding that the Iran's statement on the project was “*contradictory and changing*”, the Director General publicly admitted the mistake by the inspectors. The Director General has to be commended for his honest approach in this respect. Improper response to Iran's enhanced cooperation.

In spite of the unprecedented major steps and proactive cooperation by Iran, in confidence building, the Board of Governors started in its resolutions by requesting Iran to only suspend “feeding UF₆ into centrifuge machines” but gradually few Western countries exerted political pressure on Board of Governor, to urge Iran to fully suspend not only all enrichment activities but the uranium conversion activities, UCF, to reconsider the project on the heavy water research reactor, and even going much beyond R&D.

Calling on Iran to extend and continue suspension of its nuclear activities which are under Agency's Safeguards is in contravention of the spirit and the letter of the NPT, Statute of the IAEA as well as the Safeguards Agreements. Few members of the Board of Governors have spared no effort in imposing their discriminatory policy by prolongation of the suspension, although considered in all resolutions as voluntary, non- legally binding, as a confidence building measure, with the aim of total cessation of Iranian nuclear activities. Although the Secretariat is preparing the reports to the Board of Governors with distinction of the voluntary issues from the obligatory ones, but it has not made prioritization of the minor and major issues, as far the safeguards requirements are concerned. The international community has not been able to recognize the degree of significance of number of issues listed repeatedly in voluminous document by the Secretariat. They should not be blamed for not being able to distinguish the difference between Polonium (is not fissionable material and not reportable, as DG previously reported) from plutonium. It is worthy of recalling that in one of meeting of the Board of Governors the US delegate asked the Deputy Director General how many centrifuge and atomic bombs Iran will be able to make with 4000 pieces of small magnets which it had in mind to buy for P-2 in the future, though not purchased.



The former DDG responded the hypothetical and naïve question by saying two nuclear explosive! Considering the fact that in addition to couple of small magnets costing couple of dollars one needs over ninety more items in order to make one centrifuge machine, this kind of attitudes and non-technical approaches at the Board of Governors has and will undoubtedly put the credibility of the IAEA, the sole pertinent international technical organization, in jeopardy.

It is of a great concern and disappointment that the more Iran did cooperate and took additional steps mostly beyond its legal obligations, and the more outstanding questions were resolved, and the more stringent Safeguards measures applied; the language of the proposed resolutions by US and EU3 became tougher and the inspections were conducted in much more stringent and robust manner. The following information exerted from the DG report to the Board of Governors and resolutions supported the assertion regarding the unjust and frustrating trend:

In June 2003 Iran was first requested: *Not to introduce nuclear material* at the pilot enrichment plant as a confidence building measure that is only suspend enrichment process. Gradually in subsequent meetings, September 2003, November 2003, February 2004, March 2004, June 2004, September 2004, November 2004, Iran was requested to expand its voluntary suspension to the testing, assembling of the machines, manufacturing of centrifuge components, production of UF₆, and finally to suspend complete uranium conversion at UCF, and not to conduct R&D.

Considering the fact that the suspension was recognized even by Agency's resolutions as voluntary, non-legally binding, and as a confidence building measure, therefore these requested measure are in contrary to all provision of the NPT and Agency's Statute.

2.3. Special session of Board of Governors (August 2005) & Unprecedented Regular Session (September 2005)

Background:

A-Iran submitted a constructive proposal, based on the Paris agreement, on Objective Guarantees for nuclear activities including the enrichment to remain exclusively peaceful. The EU3 rejected the proposal.

B- After months of delay, the EU3 gave Iran a proposal which is in full contravention with the spirit and letter of the Paris agreement. In this proposal EU3/EU had exclude the Iran's right to have activities on nuclear fuel cycle. Both Tehran & Paris agreements in 2003 and 2004 respectively had recognized Iran's right to work on nuclear fuel cycle including enrichment. In accordance with the Paris Agreement, Iran agreed to voluntarily suspend, as a confidence building, non-legally binding measures, its enrichment while the negotiation on mutually acceptable long- term arrangements proceeds. Long before the resumption of the activities of the UCF, Iran had in many occasions including at the Ministerial Meeting in Geneva warned that any proposal from EU3 which exclude Iran's inalienable right for nuclear fuel cycle, will be contrary to Paris Agreement thus the shall put the continuation of negotiation in jeopardy. Based on the above mentioned developments and arguments, Iran had no more choice than to resume the UCF activities.



In spite of Iran's major positive initiatives such as the voluntary suspension, the EU3 took an unjustified hasty step by calling a special session of Board of Governors for a minor issue related to bilateral agreement and proposed a resolution against Iran, the negotiating party! Although in this resolution it is reiterated that the suspension of nuclear activities including the UCF are voluntary, confidence building, and non-legally binding measures but this unprecedented political gesture by EU3 has to a great extent poisoned the environment of trust, cooperation and dialogue, so called Vienna Spirit, in particular during the course of the Meeting Board of Governors in September 2005, where Board was for the first time in the history of the Agency divided into three pieces! The resolution was put on vote and only got 22 vote in favor where the rest of Member States, over 100, expressed serious concerns of this course of action by either voting negatively or disassociating themselves by strong statements. The author is fully prepared to deal with the technical and legal problems of the resolution and its serious negative consequences and impacts on future activities of the JAEA in other occasions in due time.

2.4. Protection of confidentiality by the IAEA

Iranian officials in several occasions have expressed their serious concerns and expected DG to make every effort to protect confidential information provided to the Agency's inspectors and officials, particularly in preparing its report for the Board of Governors. The Agency has to take in account Iran's national security, considering the potential threat of armed attacks against nuclear facilities by Israel as well as terrorist opposition groups. The Director General reports which contain confidential information restricted for the members of Board of Governors have always been released to the Western media prior to the meeting of the Board of Governors. In a number of occasions, highly confidential information, particularly regarding the military sites which had been provided to the Agency, have been released. The repeated request by the Agency to visit military site following the allegations by US at the eve of meetings of Board of Governors has to be considered with the security concerns resulted from the problems of confidentiality.

The NAM expressed serious concern in this regards too. The Director General has also expressed concerns and instructed the Secretariat to observe the principles of confidentiality but no tangible results are yet noticed.

The latest event is the release, to Western media, of highly confidential report of the former Deputy Director General on Plutonium research project, prior to his presentation to the Board of Governors in June 2005. Selective politically oriented information on purely technical issues created confusions for almost all Member of Board of Governors and to some extent challenged the technical credibility and impartiality of the IAEA.

2.5. The Historical Role and Contributions of the Non-Aligned Movement (NAM)

Since the nuclear issue of Iran was raised in 2003 the NAM chapter started its activities in Vienna. It has always taken positions based on very principles which the movement's foundation was based on. The emphasis on the multilateralism and challenge against the nuclear disarmament and non-proliferation, on one hand, and non-compromising position on inalienable and non-discriminatory right for peaceful uses of nuclear energy, on other hand,



have been the valuable principles. NAM has reiterated during last two years at the IAEA Board of Governors and General Conferences. The following are few examples of the NAM declarations:

[...] NAM believes that issues should be resolved on technical grounds.

[...] NAM attaches paramount importance to reaching decisions of the Board through consensus to bring this issue to a prompt closure and its removal from the coming Board's Agenda, and achieve normalcy.

[...] NAM appreciates that the Agency has been able to verify Iran's suspension of enrichment related activities at specific facilities and sites, and has been able to confirm that it has not observed, to date, any activities at those locations inconsistent with Iran's voluntary decision.

[...] NAM reiterates the basic and inalienable right of all Member States to develop atomic energy for peaceful purposes and recognizes that this voluntary gesture is a confidence building measure and temporary in nature intended only to further facilitate a prompt closure of this Agenda Item.

[...] NAM welcomes that the resolution reflects the fundamental principles established of NAM, namely:

- The basic and inalienable right of all Member States to develop atomic energy for peaceful purposes; and
- A clear distinction between voluntary confidence building measures and legal safeguards obligations.

In the course of the Special Session of Board of Governors, convened at the request of EU3, in August 2005, NAM put on record of the Board and tried to be incorporated into the resolution, its principle positions part of which are as follows:

NAM would like to emphasize that it is fundamental to make a clear distinction between legal obligations of Member States to their respective Safeguards agreements and their voluntary commitments, which is required to ensure that voluntary commitments of Member States will *not* turned into legal safeguards obligation. NAM is of the view that if these two issues are not clearly distinguished, it implies that member sates could be penalized for not adhering to their voluntary commitments.

After the adoption of resolution, NAM put on record the following concerns and expectations:

“NAM continue to underline that all problems have to be resolved through dialogue and peaceful means and in this regard calls on EU3 and Iran to continue with their dialogue with a view to achieving a mutually long term agreement within the mandate of the IAEA.”

It has to be noted that NAM decided to join the consensus with the understanding that above mentioned principles shall be duly considered in the future deliberations.



2.6. The future perspective based on the Agency's latest overall assessment

After more than two years robust investigation, samplings and technical analysis, the key issue of the source of HEU contamination is resolved. The DG confirmed the Iranian declaration by saying: "Based on the information currently available to the Agency, the results of that analysis tend, on balance, to support Iran's statement about the foreign origin of most of the observed HEU contamination". With the cooperation of the third country the assertion of Iran has once again been confirmed.

DG has further reported: corrective measures for failures have been made. All the declared nuclear material in Iran has been accounted for, and therefore such material is not diverted to prohibited activities. Agency will continue its safeguards activities in Iran on a routine manner, implementing the comprehensive safeguards agreement and the Additional Protocol. Iran is determined to continue its full cooperation with Agency in accordance with Safeguards Agreement and the Additional Protocol.

In brief, considering the facts that:

After over 1400 Man-days most robust inspections;

Full implementation of the Additional Protocol, included performed more than 20 complementary accesses some with short notices of 2 hours or less during the past two years; IAEA has confirmed that it has not found any evidence that Iranian nuclear materials and activities are diverted to prohibited purposes; .All nuclear materials are accounted for;

Iran decided to take a major proactive step. suspending voluntarily its enrichment activities, in order to give a chance for the Agency to perform technical analysis of the samples;

The IAEA has confirmed, as reported by DG (GOV2005/67), that the sources of HEU contamination are outside of Iran. It is proved that the HEU particles are not resulted from enrichment in Iran;

Iran is implementing Comprehensive Safeguards Agreement and voluntarily implementing the Additional Protocol as if it has ratified it;

The bitter past history of monopoly, sanctions as well as the lack of any international legally binding instrument for assurances of nuclear supply;

As reflected in NAM declarations and even the resolutions, even the last resolution adopted by the Special Board of Governors, the suspension of all related enrichment activities are a voluntary and non-legally binding as a confidence building measure;

The existence of scientifically well justified and technically reliable mechanisms and sophisticated surveillance equipment at the IAEA Safeguards Department, capable of verifying the declared enrichment activities and the levels of enrichment, and giving assurance that such activities are exclusively for peaceful purposes;

Islamic Republic of Iran has in number of occasions, including the initiative of the President of Iran presented at the General Assembly 2005, announced that it shall spare no effort to assure the international community that its activities will be exclusively for peaceful purpose;



There is justification for Iran to resume its frustrated voluntary suspension of uranium conversion (UCF) and enrichment as the result of which it would further be deprived from its inalienable right to work on nuclear fuel cycle, with the aim of producing required fuels for its research reactors and nuclear power plants.

Conclusion

Based on the facts and documents referred in this paper, the IAEA Member States, have to facilitate the progressive and constructive process within the framework of the IAEA continue, thus to further assure that the multilateralism and multilateral diplomacy works. At the same time the Member States have to prevent a certain state which has in other occasion implemented unilateral policy in contravention of international law and has ignored serious security concerns of the international community, under the false pretext of existence of the WMD, to take all achievements so far made by the IAEA, as hostage and derail the process to outside of the framework of the IAEA, pushing for confrontation which definitely endanger regional and global security.

Reiterating that Islamic Republic of Iran is fully committed to the principles of nuclear disarmament and non-proliferation and the nuclear weapons option is not in Iran's Defense Doctrine, it declares that it is determined to continue its full cooperation with the IAEA which has been confirmed by the Director General, in implementing its obligations under the Agency's Safeguards, provided that Iran is not deprived from its Inalienable right for peaceful uses of nuclear energy, including nuclear fuel cycle as envisaged in the Agency's Statute and the NPT. Iran has been and is always ready to interact with the international community in order to remove ambiguities, if any, on peaceful nature of its nuclear activities. The participation of the author in such an august gathering of intellectuals and academia proves the assertion that Islamic Republic of Iran is for cooperation and not collision with International Community.

References

- 1- IAEA Statute
- 2- Text of NPT
- 3- Comprehensive Safeguards (INFCIRC/153)
- 4- Safeguards Agreement of Iran (INFCIRC/214)
- 5- Additional Protocol (INFCIRC/540)
- 6- Iran's Comments on DG's reports to the Board of Governors (INFCIRC/628, INFCIRC/630)
- 7- Iran-EU3 Paris Agreement (INFCIRC/637)
- 8- INFCIRC/648 9- Report of Director General: The initial oral report(17 March 2003) and ten written reports: GOV/2003/40, dated 6 June 2003; GOV/2003/63, dated 26 August



2003; *GOV/2003/75*, dated 10 November 2003; *GOV/2004/11* , dated 24 February 2004; *GOV/2004/34*, dated 1 June 2004, and *Corr.1*, dated 18 June 2004; *GOV/2004/60*, dated 1 September 2004; *GOV/2004/83*, dated 15 November 2004; dated 1 August 2005; *GOV/2005/61*, dated 8 August 2005; and *GOV/2005/62*, dated 10 August 2005. In addition, the Deputy Director General for Safeguards made oral statements to the Board on 1 March 2005 (*GOV/OR.1119*) and on 16 June 2005 (*GOV/OR.1130*).

9- *INFCIRC/657*.