

Iran and the Invention of a Nuclear Crisis

Part I of a Three Part Series

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BARELY TWO years after the United States invaded Iraq in the name of weapons of mass destruction which never existed, the world is being pushed towards a confrontation with Iran on a similarly flawed premise.

On September 17, Iran's President, Mahmoud Ahmadinejad [told the United Nations General Assembly](#) that his country would not give up its sovereign right to produce nuclear power using indigenously enriched uranium. The Nuclear Nonproliferation Treaty (NPT), which Iran signed in 1974, allows Iran to build facilities involving all aspects of the nuclear fuel cycle, including enrichment, subject to international safeguards. Given the fact that the U.S. continues to impose sanctions on the development of Iran's oil and gas sector (under the extra-territorial 'Iran Libya Sanctions Act'), it is only logical that the Iranians should seek a civilian nuclear energy industry in which they won't have to be dependent on the West for fuel like enriched uranium.

However, as a major concession to Britain, France and Germany — the so-called EU-3 which has sought to prevail upon Iran to abandon enrichment in exchange for guarantees of assured fuel supply — Mr. Ahmadinejad offered to run his country's enrichment plants as joint ventures with private and public sector firms from other countries. Britain and France have rejected this offer, which the Iranians say is a demonstration of their intent to be as transparent as possible. The EU-3 and the U.S. insist Teheran must not work on enrichment because once the technology is mastered, the same facilities could be used to produce not just low enriched uranium (LEU) for energy reactors but highly enriched uranium (HEU) for bombs. Accordingly, they have circulated a resolution in the International Atomic Energy Agency (IAEA) Board of Governors meeting — which began Monday — calling for Iran's civilian nuclear programme to be referred to the U.N. Security Council as a potential threat to international peace and security.

It is not difficult for the U.S. and its European allies to get a majority of the 35-nation Board of Governors to recommend referral; however, the board has operated on the basis of consensus for the past 12 years — ever since the forced vote referring North Korea to the UNSC split the IAEA — and the non-aligned group of countries and China remain opposed to taking Iran to the Security Council. If the U.S. is convinced a consensus will elude it for the foreseeable future, it could push for a vote this week rather than wait any longer. Next month, following the annual IAEA General Conference, a new Board of Governors will take over. And with Cuba and Syria entering the Board in place of Peru and Pakistan, the ranks of those firmly opposed to an SC referral are likely to increase.

Although the immediate trigger for the European and American pressure is Teheran's

decision last month to end its voluntary suspension of uranium conversion at its Esfahan facility, the Iranian case cannot be referred to the Security Council on this ground.

First, the NPT allows uranium conversion and other processes central to enrichment. Secondly, the Esfahan facility is under IAEA safeguards and [as recently as September 2](#) , i.e. nearly a month after Iran resumed uranium conversion there, the Director-General of the Agency, Mohammad El-Baradei, certified that “all the declared nuclear material in Iran has been accounted for and, therefore, such material is not diverted to prohibited activities.” Thirdly, the agreement to suspend enrichment, which Iran reached with the EU-3 at Paris last November, clearly states that “the E3/EU recognize that this suspension is a voluntary confidence building measure and not a legal obligation.” In other words, if the voluntary suspension was not a legal obligation, the ending of that suspension can hardly be made the grounds for legal action by either the IAEA or the UN.

Myth of ‘concealment’

If at all Iran is to be referred, then, its desire to pursue a complete fuel cycle for its civilian nuclear energy programme cannot be cited as legal grounds. Nor can the hitherto “secret” nature of its fuel cycle facilities currently under construction. Though there has been a surfeit of motivated and ill-informed commentary about how Iran “concealed” its uranium enrichment programme from the IAEA “in violation of the NPT” until it was “caught cheating” in 2002, the fact is that Iran was not obliged to inform the Agency about those facilities at the time. David Albright and Corey Hinderstein — who first provided the international media [with satellite imagery and analysis](#) of the unfinished fuel fabrication facility at Natanz and heavy water research reactor at Arak on December 12, 2002 — themselves noted that under the safeguards agreement in force at the time, “Iran is not required to allow IAEA inspections of a new nuclear facility until six months before nuclear material is introduced into it.” In fact, it was not even required to inform the IAEA of their existence until then, a point conceded by Britain and [the European Union](#) at the March 2003 Board of Governors meeting. The Arak reactor is planned to go into operation in 2014. As for the pilot fuel enrichment plant (PFEP) at Natanz, it is still not operational today.

This ‘six months’ clause was a standard part of all IAEA safeguards agreements signed in the 1970s and 1980s. It was only in the 1990s, following the Iraq crisis, that the Agency sought to strengthen itself by asking countries to sign ‘subsidiary arrangements’ requiring the handing over of design information about any new facility six months prior to the start of construction. Many signed, some did not. Iran accepted this arrangement only in February 2003. Later that year, it signed the highly-intrusive Additional Protocol. Though it has yet to ratify it, Teheran has allowed the IAEA to exercise all its prerogatives under the protocol, including more than 20 “complementary accesses,” some with a notice period of two hours or less. Dr. El-Baradei also reported that “Iran has, since October 2003, provided the Agency upon its request, and as a transparency measure, access to certain additional information and locations beyond that required under its Safeguards Agreement and Additional Protocol.”

What Iran has yet to do is provide the IAEA sufficient information on the history of its centrifuge programme for it to satisfy itself that there are no “undeclared nuclear materials or activities.” However, this alone can hardly constitute grounds for referring the country to the Security Council under Article III.B.4 of the Agency’s Statute since the IAEA, in the past two years, has found discrepancies in the utilisation of nuclear material in as many as 15 countries. Among these are [South Korea](#) , [Taiwan](#) , and [Egypt](#) . In 2002 and 2003, for

example, South Korea refused to let the IAEA visit facilities connected to its laser enrichment programme. Subsequently, though Seoul confessed to having secretly enriched uranium to a 77 per cent concentration of U-235 — a grade sufficient for fissile material — neither the U.S. nor EU suggested referring the matter to the UNSC.

In contrast, there is no evidence whatsoever that Iran has produced weapon-grade uranium. Despite intrusive inspections, no facility or plan to produce weapon-grade uranium has been discovered, nor have any weapon designs surfaced.

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