

Working Paper

Submitted by
the Islamic Republic of Iran

On
Peaceful Uses of Nuclear Energy
To the First PrepCom of
NPT 2010 Review Conference

1. To establish a balance between security concerns and the socio-economic requirements for development especially for the developing countries, Article IV of the Treaty guarantees “*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*” and provides for an undertaking by all parties to the Treaty “*to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy*”. This Article also plays a crucial role as the main incentive set forth to encourage non-nuclear weapon states to join the Treaty and thereby foster the non-proliferation regime.

2. The inalienable right of all States Parties to nuclear technology for peaceful purposes without discrimination indeed constitutes the very foundation of the Treaty. This inalienable right in itself emanates from two broader propositions. First, scientific and technological achievements are the common heritage of humanity. The second general proposition is the requisite balance between rights and obligations which is the basis of any sound legal instrument. This balance guarantees the longevity of the legal regime by providing incentives for membership and compliance.

3. Article III, while providing for the undertaking by each non-nuclear weapon state to conclude Safeguards Agreements with the IAEA, is equally explicit in articulating that the implementation of such safeguards shall be “*in a manner designed to comply with Article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international co-operation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing*”.

4. This notion was duly noted in the Final Document of the 2000 NPT Review Conference when considering that “*the strengthening of IAEA safeguards should not adversely affect the resources available for technical assistance and*

cooperation. The allocation of resources should take into account all of the Agency's statutory functions, including that of encouraging and assisting the development and practical application of atomic energy for peaceful uses with adequate technology transfer."

5. Given the importance of the peaceful applications of nuclear energy and nuclear technologies for human health, agriculture, environmental protection and sustainable economic development, especially in the developing countries, the statute of the International Atomic Energy Agency recognizes its role in encouraging and assisting "*research on, and development and practical application of, atomic energy for peaceful uses throughout the world*" and fostering "*the exchange of scientific and technical information on peaceful uses of atomic energy*".

6. In recent years, unfortunately the fundamental role of the IAEA for the promotion of nuclear energy for peaceful purposes has been increasingly undermined by shortcoming in resources and restrictions imposed by some states. Since the establishment of the IAEA, the developing countries continuously have expressed serious concern about the funding policy of the Technical Cooperation, based on voluntary contributions which are, unpredictable and un- assured, and is subject to political motivations of the donors. The Safeguards activities are however funded from regular budget. Such discriminatory policy with respect to two pillars of the Agency's Statute and the NPT has to be changed.

7. More over measures taken by States Parties to prevent nuclear proliferation should facilitate rather than hamper the exercise of the recognized rights of the developing States Parties to the Treaty for the peaceful applications of nuclear energy. Imposition of undue restrictions as a cover for implementation of certain states' foreign policy objectives is a violation of Article IV obligations and challenges both the integrity and credibility of the Treaty.

8. Undue restrictions on the transfers of nuclear materials, equipment and technologies for the peaceful uses of nuclear energy should be swiftly removed. Bilateral and multilateral cooperation among states parties to the Treaty under the supervision of the IAEA on the peaceful uses of nuclear energy should never be restricted or confined either by other states or ad hoc export control regimes, such NSG. The application of unilaterally enforced export control regimes in contravention of the letter and the spirit of the Treaty has hampered the access of developing countries to nuclear materials, equipment and technologies for peaceful purposes. It is essential to note the fact that in the Agency's Statute or the NPT, as well as in the Comprehensive Safeguards Agreement and even the most intrusive instrument, that is Additional Protocol,

there is no provision to prohibit or restrict enrichment and reprocessing activities. The Agency's function is merely to verify the declaration of the Member States.

9. On the contrary measures need to be taken to ensure that the inalienable rights of all states parties under the provisions of the preamble and articles of the Treaty are all fully protected. No States Parties should be limited in exercising its rights under the Treaty based on allegations of non-compliance. The inalienable rights of the States Parties, as stipulated in the Treaty, cover all aspects of peaceful technologies and are not limited to specific areas. In this connection, 2000 NPT Review Conference reiterated that: "each country's choices and decision in the field of peaceful uses of nuclear energy should be respected without jeopardizing its policies or international co-operation agreements and arrangements for peaceful uses of nuclear energy and its fuel cycle policies." Unfortunately, for the first time in the history of the IAEA, the promotional statutory pillar of the Statute has been put in serious jeopardy through politically motivated decisions of the United Nation Security Council which is trying to dictate the Agency on what, how and when to deprive a developing Member State from technical cooperation which is solely aimed at humanitarian and peaceful uses. The authority of the IAEA as the sole competent technical international organization for this issue has seriously been undermined.

10. Since some delegations made baseless allegations against Iran, I feel obliged to put on record the following factual information:

Iran, like all other Parties to the NPT, considers the pursuit and development of nuclear technology for peaceful purposes to be its inalienable right, and has thus invested extensive human and material resources in this field. Yet illegitimate sanctions have targeted not only Iran's legitimate nuclear program but also the entire industry and all possible sources of supply of material and equipment thus seriously affecting our development plans. Clear violations of Article IV obligations by certain states in depriving the States Parties from the exercise of inalienable right, unilateral sanction and, the last but not the least the lack of any international legally binding instrument for assurances of supply, force Iran to pursue on the independent nuclear fuel cycle program and activities. What Iran has been able to achieve is primarily the result of the intellect and hard work of Iranian scientists exclusively focused on peaceful uses of nuclear energy. Regrettably, a politically charged atmosphere of concern was orchestrated regarding this peaceful capability, which has very little, if any, to do with the objectives of non-proliferation.

11. Unfortunately, during last 12 months in an unwarranted move, orchestrated by few permanent members of the Security Council, the Security Council is

being abused to take an unlawful, unnecessary and unjustifiable action against the peaceful nuclear program of the Islamic Republic of Iran which presents no threat to international peace and security and falls therefore outside the Council's Charter-based mandate. As we have stressed time and again, Iran's nuclear program is completely peaceful. We have expressed our readiness, taken unprecedented steps and offered several serious proposals to address and allay any possible concern in this regard. Indeed, there has been no doubt for us from the very beginning, nor should there be any for the International Community, that all these schemes of the co-sponsors of the UNSC Resolutions are for narrow national considerations, and aimed at depriving the Iranian people of their inalienable rights, rather than emanating from any so-called proliferation concerns.

12. In order to give this scheme a semblance of international legitimacy, its initiators first manipulated the IAEA Board of Governor and, as they acknowledged themselves, "coerced" some of its members to vote against Iran in the Board, and then have taken advantage of their substantial economic and political power to pressure and manipulate the Security Council to adopt three unwarranted resolutions .Undoubtedly, those resolutions cannot indicate universal acceptance, particularly when the Heads of States of nearly two thirds of UN members, who belong to the Non-Aligned Movement and the OIC, supported Iran's positions as recently as September 2006 and expressed concern about policies pursued inside the Security Council. These resolutions do not even reflect the views of the Council's own 15 members, since most of them were not thoroughly informed about, let alone engaged in, the discussions held in secret meetings where only a few, among them non-members of the Council, decide for the whole Security Council.

13. In order to achieve the politically motivated and unlawful goal of depriving Iran from its inalienable right to nuclear technology, attempts have been made to manufacture evidence. The recent revelation in American media is the best evidence of the falsification of the facts about Iranian peaceful nuclear activities. The same article also quotes a senior IAEA official as saying "since 2002, pretty much all the intelligence that's come to us has proved to be wrong." However, in order to enable the IAEA to reach this conclusion, Iran had to implement transparency measures outside all IAEA safeguards and protocols and allow the IAEA inspectors over 20 visit to its sensitive military sites which had no connection whatsoever to its nuclear program. Can any member of the NPT accept to do likewise?

14. In fact, over the last four years, the IAEA has conducted more than 2200 person-days of scrutiny of all Iranian nuclear facilities. All reports by the IAEA since November 2003 have been indicative of the peaceful nature of Iranian

nuclear program. On several occasions, the Agency concluded that “all the declared nuclear material in Iran has been accounted for, and therefore such material is not diverted to prohibited activities.” As recently in February 2007, the IAEA Director General reported that "pursuant to its NPT Safeguards Agreement, Iran has been providing the Agency with access to declared nuclear material and facilities, and has provided the required nuclear material accountancy reports in connection with such material and facilities." The same report also indicates "the Agency is able to verify the non-diversion of declared nuclear material in Iran." He also indicated to the Board of Governors on 5th March 2007 that the Agency has seen no “industrial capacity to produce weapons-useable nuclear material, which is an important consideration in assessing the risk."

15. According to the provision of the Statute and Safeguards Agreement, only if diversion of nuclear material to military purposes is reported by inspectors, and or the Agency is unable to conduct verification as the result of expulsion of the inspectors, appeal for remedy actions fails, and then the Board of Governors could convey the issue to the UNSC. None of these legal requirements were applied in the case of Iran, thus the resolution of 2006 of the Board of Governors conveying the dossier to UNSC as well as the resolutions of the UNSC is legally baseless.

16. It is very unfortunate that the Security Council, under the manifest pressure by a few of its permanent members, persists in trying to deprive a nation of its "inalienable right" to develop nuclear technology for peaceful purposes, while that nation has met, and continues to honor, its international obligations. The Security Council's decision to try to coerce Iran into suspension of its peaceful nuclear program is a gross violation of Article 25 of the Charter, Article 4 of the NPT and Article 2 of the Agency Statute and contradicts Iranian people's right to development and the right to education. The Security Council could not pressurize countries into submitting either to its decisions taken in bad faith or to its demands negating the *Fundamental purposes and principles of the UN Charter*. To do that would violate established principles of international treaty law and that of the purposes of the UN Charter to establish conditions under which justice and respect for treaty obligations is to be maintained.

17. It should be once again reiterated that arbitrary and self serving criteria and thresholds regarding proliferation-proof and proliferation-prone technologies can and will only undermine the Treaty. Iran, for its part, is determined to pursue all legal areas of nuclear technology, including enrichment, exclusively for peaceful purposes. But, no one should be under the illusion that guarantees can theoretically or practically amount to cessation or even suspension of a legal

activity which have been and will be carried out under the fullest and most intrusive IAEA supervision.

18. In conclusion, Islamic Republic of Iran is of the view that to strengthen the effectiveness and credibility of the Treaty and to put an end to the selective implementation of Articles of the Treaty, the NPT 2010 Review Conference and its PrepComs should intensify their work in order to prevent further non-compliance of industrial State Parties, with undertakings under Article IV. Adoption of tangible measure to promote the implementation of the inalienable rights of all states parties, particularly the developing countries, to enjoy their established right under the Treaty to have full access to nuclear materials, technologies, equipment and scientific and technological information for peaceful purposes and in doing so, while preserving the delicate balance between the rights and obligations arising from the Treaty, any new division amongst the States Parties and interpretations incompatible with the very wording of the Treaty should be strictly avoided.

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