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**The Limitations of the IAEA in Non-proliferation Area
A Case Study of Iran Nuclear Issue**

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Abstract: The International Atomic Energy Agency (IAEA) has been founded as a global organization dedicating to monitor international nuclear activities, prevent nuclear proliferation and safeguard the nuclear peaceful use. Since the time of its coming into being, the Nuclear Safeguards System (NSS), which based on nuclear safeguards provisions of the IAEA and underpinned by nuclear Safeguards Model Agreements & Additional Protocol, has gone through an ever-changing and improving process. At the condition of fully admitting the huge and irreplaceable role of the IAEA in preventing nuclear proliferation, promoting peaceful using nuclear energy as widely well known, this paper just tries to focus some limitations of the IAEA which might exist when it implies its nonproliferation function. Some of these limitations are due to the nature of international organization, but some of them may caused by other subjective reasons. The Iran nuclear issue has taken a center of international non-proliferation theatre since 2003. Taking Iran nuclear issue as an example to analysis the limitations of the IAEA, should contribute to strength the role and status of the IAEA in non-proliferation area. There are at least four points need to discuss. How to balance the two wheels of non-proliferation and peaceful use? How to avoid the double-standard phenomenon as far as possible and promote the universality and authority of the IAEA? How to deal with the relationship of relative independence of the IAEA and the last result of UN Security Council (UNSC)? How to look at the relationship of the IAEA and the big powers, i.e. US?

Key Words: IAEA; Limitations; Nuclear Non-proliferation; Iran Nuclear Issue

Introduction

It originated from a vision of the United States to set up a special international body responsible for management and utilization of Atomic Energy uniquely and independently. In July and August 1945, the United States successfully tested in New Mexico, and subsequently used atomic bombs in Japan, which officially opened the nuclear age in international politics. For the monopoly of nuclear weapons, the United States demanded the other states to make commitments that any nuclear materials and nuclear facilities imported from US should not be used in the manufacture of nuclear weapons. Furthermore, those states must accept the United States verification and monitoring to such materials and facilities. However, only one country's capacity is limited after all. On November 15, 1945, in the summit of the United States, Britain and Canada at Washington DC, three states leaders formally explored the possibility of establishment of an international body for the first time, to centralize management and use of nuclear energy, and to prevent nuclear weapons proliferation as well. On December 27 of the same year, at the Foreign Ministers' meeting of the United States, Britain and the Soviet Union held in Moscow, the Soviet Union agreed with the ideas of United States and Britain to establish the United Nations Atomic Energy Commission (UNAEC) under the guidance of the UN Security Council. At the first session of the General Assembly held in London on January 24, 1946, General Assembly No.1 (I) Resolution was unanimously approved by representatives of 51 States Members, which decided to establish an (Atomic Energy) Committee, "to address the problems caused by the discovery of Atomic Energy, as well as other related matters". However, over the next few years, the United States and the Soviet Union struggled fiercely at the Atomic Energy Commission over the issue about "control(nuclear energy) first, then elimination of (nuclear weapons)", or "elimination first, then control", resulting in deadlock in the work of the Atomic Energy Commission. In September, 1949, the Soviet Union successfully tested an atomic bomb. The quarrel between two super powers about "control" or "eliminate", which should be first, ended with the nuclear weapons proliferation. On January 11, 1952, the General Assembly adopted resolution No. 502 (VI), which disbanded the Atomic Energy Commission that already existed in name only in the previous years.

In the early 1950s of the 20th century, the international society protested severely against the nuclear arms race, calling for the peaceful use of nuclear energy. In order to maintain the United States nuclear dominance, prevent the further proliferation of nuclear weapons, and

ensure that United States nuclear power industry's competitiveness in the international market, at the same time echo the calling of peace movement as well, on December 8, 1953, United States President Eisenhower made the famous speech entitled "Atoms for Peace" at the General Assembly, calling for establishing an atomic energy agency under the United Nations. "The atomic energy agency could be made responsible for the impounding, storage and protection of the contributed fissionable and other materials." "The more important responsibility of this atomic energy agency would be to devise methods whereby this fissionable material would be allocated to serve the peaceful pursuits of mankind."¹ "These ideas helped to shape the IAEA Statute, which 81 nations unanimously approved in October 1956. The Statute outlines the three pillars of the Agency's work - nuclear verification and security, safety and technology transfer."²

From the above much outlined history background, we can see clearly that the origin of the IAEA mainly reflects the interests of United States (though later also be approved by the Soviet Union) for preventing the further proliferation of nuclear weapons. At that time this strive was coincident with the expectations of the majority of non-nuclear weapon states which protest against nuclear weapons and desire for the peaceful use of nuclear energy. But unfortunately, although 81 states unanimously supported the birth of the IAEA, nuclear and non-nuclear states differed in focus. The former values the nonproliferation role of the IAEA, while the later cherish the point of the supports of IAEA for peaceful use.

Since its inception in 1957, particularly in 1997 adopted the uniform strengthening comprehensive safeguards of the Model Additional Protocol, the IAEA has gradually established an integrated nuclear safeguards system. As the only international organization responsible for the worldwide safeguards of nuclear activities, the IAEA has played an irreplaceable role in dealing with the risks of nuclear proliferation and promoting the nuclear peaceful use regard. This paper, however, would not intend to spend much energy on the success and experiences of the IAEA, but rather look at its shortcomings and limitations, especially in nonproliferation area.

Imbalance of the IAEA between nuclear peaceful use and nuclear nonproliferation

¹ "Atoms for Peace", Address by Mr. Dwight D. Eisenhower, President of the United States of America, to the 470th Plenary Meeting of the United Nations General Assembly, Tuesday, 8 December 1953.
http://www.iaea.org/About/history_speech.html

² David Fisher, "History of the IAEA", <http://www.iaea.org/About/history.html>

According to the Statute of the IAEA, “The Agency is authorized: to encourage and assist research on, and development and practical application of, atomic energy for peaceful uses throughout the world; and, if requested to do so, to act as an intermediary for the purposes of securing the performance of services or the supplying of materials, equipment, or facilities by one member of the Agency for another; and to perform any operation or service useful in research on, or development or practical application of, atomic energy for peaceful purposes.”³ This is the No.1 of 7 functions of the IAEA. Evidently, the major function of the IAEA is to promote nuclear peaceful use, at the same time avoiding this kind of use are converted to military end. But, it is difficult to maintain a balance between the two sides. Because the nuclear powers are more interested in preventing nuclear proliferation through the IAEA management and control, while the non-nuclear weapon states pay more attention to using the IAEA for assistance and support of the development and utilization of nuclear energy. So the basic reason behind the uneven relationship of non-proliferation and peaceful use is the contradiction between the nuclear and non-nuclear weapon states. Since the long-standing contradiction between the nuclear weapon states and non-nuclear weapon states, how to balance the non-proliferation and peaceful use of nuclear energy has been a long-standing issue too.

In the 50s and 60s of the 20th century, due to intense nuclear arms race between US and the Soviet Union, both superpowers tended to provide nuclear assistance directly to their partner countries through bilateral agreements with respective nuclear safeguards on their own. At the same time, Western Europe countries established the European Atomic Energy Community and the European Atomic Energy Agency, on its own authority in the region of the nuclear deal. Taking that it had domestic verification bodies as grounds, Japan refused to accept the IAEA verification.⁴ Furthermore, the oversight function is conferred by the Statute of the IAEA, but the legal basis for a State to be safeguarded is relied on bilateral agreements between the IAEA and the member states. It’s not an automatic right that the IAEA could verify in a state even if the state has been the member of the IAEA.

Prior to 1970, the major oversight work did by the IAEA is “project guarantees” (INFCIRC/66/Rev.2): the parties those purchase of nuclear materials or equipments, according to

³ Article III Functions, The Statute of the IAEA, <http://www.iaea.org/About/statute.html#A1.2>

⁴ see Sun Degang: "The International Atomic Energy Agency and Its Verification Effectiveness Research – A Case of the Agency in the Verification of the Middle East", *the Arab world studies* November 2008, pp.47-48; Yue Hanjing: "Background and Basic Functions of the International Atomic Energy Agency and Limits", *the PLA Institute of International Studies Journal*, March 2008, p.126.

the nuclear exporter's request, must sign safeguards agreements with the IAEA for verification over the imported items. In other words, the IAEA can just oversight the items involved and related facilities. Therefore, it's not until 1970 when the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) entering into force, the function of safeguards of the IAEA had been not fully realized in the non-proliferation area. The imbalance of nonproliferation and peaceful use is not remarkable either. But since 1970 onwards, all NPT non-nuclear-weapon States Members are required under provisions of treaty article 3, to sign the comprehensive safeguards agreements with the IAEA, namely INFCIRC/153, which the IAEA developed specifically for such protection file, and accept the IAEA monitoring and verification fully. Since then, the main role of the IAEA gradually turned to nuclear non-proliferation. More emphasis is given to the monitoring and verification work aiming at the non-nuclear-weapon states, and less attention on the peaceful use of nuclear energy.

However, after the oil crisis in the 1970s of the 20th century, many developed countries speeded up the development of the nuclear power industry; developing countries also had such requirements. Since the nuclear materials, nuclear technologies (talents), nuclear equipments have been mainly grasped in the hands of developed countries, particular of the nuclear-weapon States, non-nuclear-weapon states find its road to the peaceful use of nuclear energy was not smooth.

After the end of the Cold War, a great of adjustments and changes took place in international relations. A few countries have been accused of having attempted or are trying to break the nuclear embargo, and take the peaceful use of nuclear energy as a cover to develop nuclear weapons. Further, international terrorists are also ready, attempting to acquire weapons of mass destruction. The risk of nuclear proliferation has been greatly increased. Therefore, the IAEA intensifies its efforts in the safeguards over the nuclear activities and enlarges the scope of monitoring and verification. At the same time, International energy competition also intensified and energy security has become one of the core issues of universal concern to each country. Although the IAEA encourages and supports the peaceful use of nuclear energy, once a non-nuclear state is suspected that it might be involved in any kind of nuclear proliferation activities, investigation would be carried out immediately and the previous supports would be suspended even recalled. The issue might be handed over to the Board of IAEA, even be submitted to the US Security Council (UNSC) for discuss. This series of actions are understandable from a

proliferation point of view; but sovereign states which are seeking for peaceful use of nuclear energy, would feel they have been limited and prejudiced. Iran nuclear issue, to some degree, is related to the problem that is how the IAEA and international community maintain a balance in the prevention of nuclear proliferation and promotion nuclear energy utilization.

Iran joined the NPT in February 1970. In accordance with the Treaty requirements, Iran signed the comprehensive safeguards agreement with the IAEA (INFCIRC/214), which came into effect on May 15, 1974. As a non-nuclear-weapon Member State of the NPT, Iran has the responsibility to comply with the obligations of the non-proliferation of the NPT (the Article I). At the same time, Iran has a right to get assistance and cooperation from the international community for unrestricted peaceful development and use of nuclear energy. As early as in 1957, Iran and the United States signed a civilian nuclear cooperation agreement, which allowed the United States to provide Iran with nuclear technologies and materials for Iranian nuclear peaceful research. But the real step of Iran nuclear development program began in the 1970s of the 20th century. The Center for Strategic International Studies (CSIS) of the United States issued a research report in 1998 that outlined the development of Iran nuclear program before 1979: Iran signed a 10-year nuclear fuel supply contracts respectively with the United States in 1974, with the Federal Republic of Germany in 1976, and France in 1977. Further, Iran participated in the joint venture group of the European Gaseous Diffusion Plant, taking unit 10%. Through this cooperation, Iran gained the opportunity to touch diffusion technology and purchase enriched uranium. It was at this time or so that Iran designed a plan of nuclear power plant which would continue to 1990. This plan intended to build 23 nuclear power units, and import nuclear power stations from Germany and France. By 1979 of Islamic Revolution, Iran had signed six pieces of contracts on nuclear power plants construction and exported 12 sets of nuclear power generating units from Germany, France and the United States. ⁵ From this simple and short description of Iran's nuclear energy development history, we can see that in the 1970s of the 20th century, Iran's peaceful nuclear development program was very smooth. But this "smooth" development came not much from its cooperation with the IAEA, but rather from good relations with western countries.

After 1979, United States began to frequently accused Iran of having nuclear weapons development plan. The above same report detailed the "attempts and signs" of Iran developing

⁵ "Iranian Nuclear Capability", *Guowai He Xinwen (Nuclear News Abroad)*, No.6, 1998, p.9.

nuclear weapons, which led the international community and the IAEA to intensify the supervision and control on the Iranian nuclear activities and protest any other countries' nuclear cooperation with Iran. Under this condition, Iran's nuclear development program was suspended for long time. During that period, although the IAEA found no evidence about Iran nuclear weapons program, the United States and other western countries still continued to accuse of Iran's violation of NPT and imposed sanctions to it.

The tortuous process of the Bushire power plant construction may fully reflect that Iran's nuclear energy development is not easy. Iran started to establish a nuclear power plant cooperated with West Germany at Bushire in the north shore of the Persian Gulf since 1974. But as discussed above, this kind of cooperation was broke off in 1979 when Islamic revolution took place. Since then, Iran tried many times to resume the project but gave up due to the lack of related capacity. Until January 1995, Iran and Russia signed an agreement on reconstruction of Bushire nuclear power plant, which caused fierce opposition from the United States for the reason of its belief that Russian such action equals to encourage Iran to engage in the proliferation of nuclear weapons. In March 1998, Ukraine withdrew the contract that scheduled to supply turbo-generator for Bushire nuclear power plant under the pressure of the United States.

During the later decade or so, although Russia insisted on that its cooperation with Iran on nuclear energy development under the IAEA safeguards system was reasonable and legitimate; in practice such cooperation process often was delayed due to various reasons. And further, the issue of Bushire nuclear power plant became the focus of a debate in the US-Russian relations in following years. In this context, the construction of the Bushehr nuclear power plant was not smooth. It originally planned to be finished and began to be put into use by 2003, but until April 2010, it just started on trial.

Some states question Iran the necessity as an oil-exporting country to develop nuclear energy and doubt the motives that why Iran would rather produce much more expensive nuclear fuel themselves than buying them cheaply from the international market? The logic answer is that Iranian uranium enrichment activities must have an ulterior purpose. Facing these accusations, in response, Iran strongly denied it had ambitions to develop nuclear weapons on the one hand, insisted that Iran has the right and necessity to develop its own nuclear power industry on the other hand, because "Iran's oil and natural gas resources will run out one day. Oil and gas

resources are not always present. If a state does not take this fact into account, it will ultimately have to rely on other countries in energy supply.” Also Iranian leader believes that "there are some great powers bent on opposing Iran nuclear peaceful program is purposed to control the world's energy future.”⁶ As for the general concern for its uranium enrichment activities from the international community, Iran has always stressed that this was to ensure the self-sufficiency of national nuclear energy materials, since the international nuclear material market is lack of stability and justice. As a matter of fact, it's true. As a member state of the NPT, under the IAEA safeguards, Iran has not accepted what it needs in nuclear energy development from outside world but has been accused again and again by others. Have this unsecure situation made Iran to consider developing a kind of military nuclear capability if it had really has such program?

Comparing the history of Iranian nuclear industry development before and after 1979, it's clear to see that Iranian internal political regime transition made the outside world, especially the west world changed previous attitude and policies over Iranian nuclear program. This change influenced the attitude of IAEA and intention of Iran as well. The outcome is more pressure on Iran more Iranian undeclared nuclear activities. I doubt the other countries including IAEA was too loose toward Iran before 1979 in supporting its nuclear program and too strict on that after 1979. As a same nation, Iran should have deep feeling about this transition. If Iran had had the intention of developing nuclear weapons before 1979, why west countries still supported it without enough alert? And why the worries and suspects even sanctions came just after the Iranian internal regime changed? Can we get a conclusion that IAEA or international community emphasis nuclear peaceful use before 1979 but non-proliferation after that time? Is this a kind of unbalance between the two major functions of the IAEA: peaceful use and non-proliferation? Continually, if Iran is accused of developing nuclear weapons, what kind of responsibility other parties engaged in this issue should take?

The phenomenon of Double-Standards of the IAEA

An even more unacceptable thing for non-nuclear weapon states is that the IAEA treat nuclear activities differently to different countries in safeguard respect. Such kind things, no matter purposely or not, has made some non-nuclear states unhappy and in turn reluctant to

⁶Liang Youyong, Xu Yanyan, "Khamenei Strengths that Iran must carry on the Nuclear Fuel Production", 18 February, 2007, http://news.xinhuanet.com/world/2007-02/18/content_5751703.htm

cooperate with the IAEA, even taking the risk of involving in proliferation. Examples in this regard are not very rare.

In dealing with the nuclear issues of India, Pakistan, North Korea, and Iran, the IAEA has adopted different policies. India consistently has refused to sign the NPT until now and had been isolated by the Nuclear Suppliers Group (NSG) since 1974 when India conducted its first “peaceful” nuclear test. Further, India led to conduct nuclear tests in 1998, triggered a nuclear arms race in South Asia with Pakistan. The events of nuclear tests by India and Pakistan seriously damaged the international nuclear non-proliferation regime and set a very negative example for the other non-nuclear weapon states after the ending of Cold War. However, beginning in 2005, the United States made efforts to end the India’s nuclear isolation situation. In March 2006, the “US-India nuclear Cooperation Agreement” was signed. Under the United States’ lobby and pressure, by 2008, the IAEA and India signed additional protocols to comprehensive safeguards on India’s civilian nuclear implementation, which has made India the only exceptional state in the world without joining the NPT but breaking through the international community's nuclear embargo. The other country which followed Indian nuclear test, Pakistan couldn’t enjoy such treatment.

In addition, in November 2004 the Board of Governors of IAEA discussed undeclared uranium enrichment and plutonium separation activities of South Korea, which violated the safeguards agreements with the IAEA, but concluded that “the amount of material involved is not much and there is no evidence that the experiment continues.”⁷ Some comments believe that the level of South Korea uranium enrichment is far more than that of Iran. “Yet the IAEA treated Iran as a state to be investigated indefinitely, while failing to give South Korea even a slap on the wrist.”⁸ “The stark contrast between the treatment of the Iranian and South Korean cases by the IAEA Secretariat and its Board of Governors is the most dramatic evidence of a politically motivated nuclear double standard practiced by the agency and its Governing Board, dominated by the United States. And as the episode showed, that double standard essentially reflected the political-military interests of the US government.”⁸ Coming to the cases from Israel to North

⁷ IAEA Board Concludes Consideration of Safeguards in South Korea, Staff Report, http://www.iaea.org/NewsCenter/News/2004/south_korea.html

⁸ Gareth Porter, “South Korea let off for nuclear deceptions”, *Asia Times Online*, Dec 22, 2009. http://www.atimes.com/atimes/Middle_East/KL22Ak02.html

Korea or Iran, the differentiated attitudes are so huge and so evident that even don't need to discuss anymore.

Some people would like to say India or Israel is not the partner of the NPT, so need not to comply with the NPT. Does this imply that if Iran would withdraw from the NPT one day, it could develop nuclear weapons legally? Or North Korea withdrew from the NPT in 2003, and then it was legitimate to conduct its nuclear test in 2006? This kind of logic seems completely contrary to the thought and spirit of nuclear non-proliferation regime and also against to the wishes of the majority of non-nuclear States. So differentiated standard of judging who is legitimate and who is illicit proliferation can hold no water at all.

Or some others would claim that India and Israel are democracy countries and both never threaten to use nuclear weapons against any other countries. Here double-standard appears again. US never gives up its option of using nuclear weapons against some countries and under some situations. How to judge this policy? Also, China always declares that it will never use nuclear weapons firstly but why many countries don't believe? So intention, policy and force, which decide the final diplomatic action? Is there any point when Iran threatens to eradicate the Israel from the world map or North Korea swears to defeat American Imperialism? How many people believe these clichés? There countless history lessons have told us any internal political system and foreign policy can change quickly even overnight.

For example, in 1920s, Japan was still a democratic country, policy was made collectively. Even through the 30s and 40s, Japan never created individual dictatorship. But it's this collective decision-making regime that led Japan invaded nearly whole Asian countries and attacked the US. Japan never said it wanted to invade other countries. It just wanted to "enter" other countries and build a new Asia sharing prosperous and happiness. So declared policy is just a declaration. No matter internal system or declared intention is not enough to judge which country should be treated in this way or that way. During its international nuclear oversight activities, the IAEA adheres to double or even multiple standards, from time to time, which not only made it unconvincing, but also undermined the authority and legitimacy of its own.

Lacking enough independence of the IAEA in relations with the United Nations Security Council

The IAEA was established under the auspices of the United Nations, but legally it's not a direct subordinate organ of the United Nations, and enjoys considerable independence. According to the Statute of the IAEA, it works on its independent way but needs to regularly report to the United Nations General Assembly, the Security Council, the Economic and Social Council and other related bodies of the UN about what and how its work is going on. However, in practical operation, the relationship between the IAEA and the UN Security Council is too complex that it's difficult for the IAEA to deal with any doubted nuclear proliferation crisis independently due to the lack of necessary environment, will, ability and means. This could be demonstrated by the case of the Iranian nuclear issue too.

The Iran nuclear issue so far has gone through several stages. From August 2002, Iran nuclear issue just appeared from horizon, to February 2006 when the IAEA decided to submit it to the UN Security Council, the Iran nuclear issue was discussed primarily under the framework of the IAEA. On September 12, 2003, the IAEA Board of Governors adopted a resolution "Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran", requiring Iran to take the following actions by October of 2003 without any conditions. Major points are: (i) providing a full declaration of all imported material and components relevant to the enrichment program, especially imported equipment and components stated to have been contaminated with high enriched uranium particles, and collaborating with the Agency in identifying the source and date of receipt of such imports and the locations where they have been stored and used in Iran;(ii) granting unrestricted access, including environmental sampling, for the Agency to whatever locations the Agency deems necessary for the purposes of verification of the correctness and completeness of Iran's declarations;(iii) resolving questions regarding the conclusion of Agency experts that process testing on gas centrifuges must have been conducted in order for Iran to develop its enrichment technology to its current extent; (iv) providing complete information regarding the conduct of uranium conversion experiments; (v) providing such other information and explanations, and taking such other steps as are deemed necessary by the Agency to resolve all outstanding issues involving nuclear materials and nuclear activities, including environmental sampling results." ⁹ Evidently, the IAEA didn't confirm that Iran had definitely violated the NPT nonproliferation obligation. At most, its some activities had caused

⁹ Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, Resolution adopted by the Board on 12 September 2003, <http://www.iaea.org/Publications/Documents/Board/2003/gov2003-69.pdf>

doubts and need to be clarified and verified. But even at that moment, the United States had strived to push the IAEA to hand over the issue to UN Security Council and then take sanctions against Iran. In response this resolution, Iran claimed that it would like to accept comprehensive inspections of IAEA as long as Iran was entitled to the peaceful use of uranium enrichment technology, and called on the IAEA to resist the pressure from the United States to avoid possible UN Security Council's sanctions.

In order to break this impasse and avoid the situation escalation, in October 2003, Britain, France, Germany and the EU Representative Solana joined the Iran nuclear issue resolving process. On November 26, 2003, the IAEA Board adopted a resolution, expressing deeply regrets over Iran past some undeclared activities which violated the compliance with the safeguards agreement of IAEA, but decided not to submit the issue to the UN Security Council, so as to leave room for European efforts. On December 18, 2003, Iran and the IAEA signed the enhanced comprehensive safeguards additional protocol, but it could only take effect after Iran's parliamentary approval. In November 2004, Iran and the three European countries reached a broader settlement package of resolving Iran nuclear issue, and Iran promised to suspend all uranium enrichment-related activities. At this period, all partners including Iran, European countries and the IAEA believed that the Iran nuclear issue was going on optimistic direction. But the United States still insisted on pushing the issue to the UNSC. 10

In 2005, the three European states and Iran negotiated the issue of Iran permanently giving up its uranium enrichment program for long time but ended in vain. Just at this time, In May 2005, the United States introduced a National Intelligence Assessment Report, which accused that Iran was secretly developing nuclear weapons program. Thus Iran nuclear issue changed in qualitative: from doubt to confirm. In July of the same year, Mahmud Ahmadi—Nejad sworn as Iran president. Soon in August, Iran withdrew the commitment of suspending uranium enrichment. On September 24, 2005, after three European countries and the United States coordinated their positions on Iran issue, the IAEA Board of Governors adopted a resolution said Iran had violated its obligations to comply with the safeguards agreement with the IAEA several times, and either had not comply with the Statute, therefore the IAEA Board of Governors would consider to submit this issue to the UNSC. This is the first time that the IAEA

¹⁰ *SIPRI Year Book 2005: Armaments, Disarmaments and International Security*, Chinese Version, Beijing: Shishi Publishing House 2006, pp.804-805.

tried to submit the Iran nuclear issue to UN Security Council. Iran was very angry and the relationship between Iran and the United States as well as the other west states was tightened suddenly. Iran declared it would re-start its uranium enrichment activities, and suspend compliance with the Enhanced Additional Protocol which had not yet been ratified. Iran Parliament also passed a piece of legislation: Once the IAEA refers the Iran nuclear issue to the United Nations Security Council, Iran will no longer allow the Agency to verify Iran nuclear facilities. ¹¹On February 4, 2006, the IEAE Board adopted a new resolution proposed by some European countries, and requested the Director-General of the IAEA to submit all relevant reports and resolutions that the IAEA had approved to the UN Security Council. On February 6, Iran informed the IAEA that it would no longer abide by the provisions of the Additional Protocol, and would also stop executing all other non-legally binding and transparency measures, and fully resumption of uranium enrichment activities as well. ¹²The European coordination ended with failure.

It's a turning point for Iran nuclear issue. After being submitted to UN Security Council, the way of resolving the issue changed from negotiation-based to sanctions-dominated. Although the IAEA has still issued verification assessment reports on the Iran nuclear issue, it has lost the control of the problem-resolve process and begun to subordinate to the UN Security Council. On February 27, 2006, the IAEA Director-General submitted a series reports on Iran implementation of the safeguards agreement to the Board of Governors. These reports claimed that the IAEA had identified there was no prohibited activities from the declared nuclear materials in Iran, but was unable to fully identify Iran history of previously undeclared nuclear activities. ¹³Although this conclusion was so equivocal, at least the IAEA admitted it had not found that Iran had engaged in any proliferation activities, the UN Security Council still involved into the problem. On March 29, 2006, the UN Security Council issued a Presidential Statement on Iran's nuclear program and expressed serious concerns over the Iran's resumption of uranium enrichment-related activities and suspending cooperation with the IAEA within the framework of the Additional Protocol. Ironically enough, the so-called "concerns" were rightly the Iranian response actions to protest the submission of the IAEA of Iran nuclear issue to the UN Security Council and retaliation to

¹¹ *SIPRI Year Book 2006: Armaments, Disarmaments and International Security*, Chinese Version, Beijing: Shishi Publishing House 2007, pp. 888-889.

¹² *SIPRI Year Book 2007: Armaments, Disarmaments and International Security*, Chinese Version, Beijing: Shishi Publishing House 2008, pp.646-647.

¹³ *Ibid.* p. 648.

the proliferation accusation made by the United States. This Statement requires Iran to take measures, including the complete cessation of the uranium enrichment and related research and develop activities. Iran did not reply and denied a series of negotiating proposals. On May 31, 2006, the United States announced that if Iran immediately halt all uranium enrichment & reprocessing activities and resume the cooperation with the IAEA under the framework of the Additional Protocol, the United States would join the direct talks between European countries/EU and Iran. Confusedly, this condition was really existed before the tuning point when the issue was handed to UNSC disregarding the unconfirmed discoveries and Iran's protests & warnings. Iran stressed it would not accept the precondition of stopping its uranium enrichment program for direct dialogue with the United States. ¹⁴On June 6, 2006, China, France, Germany, Russia, the United Kingdom and the United States announced a new package of nuclear energy, technique cooperation as well as political and security issues, convincing Iran to stop uranium enrichment indefinitely, but either getting no positive response from Iran. On July 31, 2006, the United Nations Security Council adopted resolution No.1696, requiring Iran must stop its uranium enrichment activities and describe its all aforesaid nuclear concerns by the deadline of August 31, 2006. However, Iran denied the requirements. In the coming few years, the United Nations Security Council adopted three resolutions of sanctions against Iran (No.1737, No.1747, No.1803). ¹⁵ It is worth noting that prior to the adoption of the resolution No.1803 on February 22, 2008, the IAEA Board of Governors released a report on Iran nuclear issue, which detailed the progress that Iran had made in cooperation with the IAEA and the remaining problems, and clearly admitted that resolving of Iran nuclear issue had made progress. However, the United States took the remaining unresolved issues in the report as the grounds to

¹⁴ *SIPRI Year Book 2007: Armaments, Disarmaments and International Security*, Chinese Version, Beijing: Shishi Publishing House 2008, p.652.

¹⁵ UNSC Resolution No.1737 (2006)
<<http://www.un.org/chinese/aboutun/prinorgs/sc/sres/06/s1737.htm>>
UNSC Resolution No.1747 (2007)
<<http://www.un.org/chinese/aboutun/prinorgs/sc/sres/07/s1747.htm>>
UNSC Resolution No.1803 (2008)
<<http://www.un.org/chinese/aboutun/prinorgs/sc/sres/08/s1803.htm>>

¹⁵ *Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions 1737 (2006), 1747 (2007) in the Islamic Republic of Iran*, Report by the Director General, GOV/2008/4, Date: 22 February 2008
http://www.iaea.org/Publications/Documents/Board/2008/Chinese/gov2008-4_ch.pdf

push the UN Security Council to enhance sanctions over Iran. ¹⁶ But the continuous sanctions not only failed to make Iran compromise but also stimulated Iran to expand its nuclear program. In October 2009, the Six-Party Talks on the Iranian nuclear crisis discussed the issue with the IAEA and proposed a new deal of the nuclear fuel exchange for Iran as a basis for further negotiation in the name of the IAEA. In this deal, Iran should ship all of its low purity enriched uranium (1200 kg) one time to Russia where it would be reprocessed into higher purity uranium about 20% by Russian and then it would be handed over to France for produce of nuclear fuel rods, these fuel rods in the last would be returned to Iran for the research of nuclear reactors; Iran halt uranium enrichment activities. Iran accepted this plan with many modifications, which were not recognized by the concerned parties. The impasse continued. On February 7, 2010, the Iranian president Nejad ordered immediate purification of uranium. On February 8, Iran officially notified the IAEA that it would produce enriched uranium with 20% of purity as the fuel for Iranian nuclear reactors. On February 11, Iran announced that it had produced the first batch of enriched uranium for fuel, and claimed that Iran was a "nuclear power" ever since. The United States thus was planning new round of sanctions against Iran through UNSC. On June 9, 2010, the United Nations Security Council adopted the fourth sanctions resolution (No.1929) on Iran with 12 member states in favor, while Brazil and Turkey against, Lebanon abstaining.

Successive sanctions have not resolved the nuclear confrontation. Despite the different stances of the Six-Party concerned with the Iran nuclear issue, the IAEA Director-General issued another new report recently on November 8, 2011, which leading to the conflicts to be intensified among the relevant sides; even military way to resolve the problem was considered by Israel and the United States during the following days. But the new report has not clarified yet whether Iran is still violating NPT obligations if it once did so. Iran criticized that the IAEA and the Director-General are politically motivated to produce such report. Out of some people's expectation, on November 18, 2011, the Board of IAEA of Governors approved the draft resolution submitted by the Six-Party on the Iran nuclear issue commonly with an overwhelming majority(32/35), which confirmed to deal with the crisis through diplomatic way and did not plan

¹⁶ *Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions 1737 (2006), 1747 (2007) in the Islamic Republic of Iran*, Report by the Director General, GOV/2008/4, Date: 22 February 2008
http://www.iaea.org/Publications/Documents/Board/2008/Chinese/gov2008-4_ch.pdf

to refer it to the UNSC again. This resolution should reflect the will of majority countries in the world.

Bring the Iran nuclear issue to UNSC, on one hand, might help to intensify the sanctions to activities that have violated the NPT. But on the other hand, it increased backlash in the countries concerned. The fact is before 2006 when the issue was still confined in the frame of the IAEA, Iran chose to cooperate with the IAEA though there were some unsatisfactory aspects. After the issue was submitted to UNSC, confrontation took place cooperation, if there still was some cooperation, it was just better than nothing. The room for the IAEA has been significantly reduced. It has taken a subordinate position to UN in dealing with Iran nuclear issue. Hopefully, the IAEA could resume the control in resolving the Iran nuclear issue through the recent resolution.

The Relationship of the IAEA and the United States: Its Neutrality and Authority

The complicated relations of the IAEA and the UNSC are largely due to the impact of the powerful states, especially that of the United States on the IAEA. It can be inferred from the preceding discussions that no matter the establishment or development, the IAEA relied on the supports of nuclear powers, particularly the United States. It's difficult for the IAEA to get rid of the influence from the United States in respects such as personnel, finance, technology and decision-making. Therefore, the neutrality and authority of the IAEA are often challenged.

In accordance with its Statute, the IAEA body includes the General Assembly, the Board of Governors and the Secretariat. The General Assembly is comprised by representatives from all member states, which convenes a meeting every year. The Board of Governors is the policy-making body of the Agency, held four meetings per year. The Board is reelected once a year; the 35 member states are designated by the General Assembly or by elections. The Secretariat is the executive body, led by the Director-General. Director-General is appointed by the Board and approved by the General Assembly according to the Statute. But in practice, the candidates of the Director-General usually must be approved by big powers, especially the United States. The United States often affects the position of the IAEA by supporting the Director-General candidates. The first Director-General of the IAEA, William Sterling Cole, is an American who was the Chairman of the Congressional Joint Committee on Atomic Energy of the United States,

and worked as a consultant for discussion the Statute of the IAEA in the United States Congress, before taking his post in the IAEA. 17

Former General-Director Mohamed ElBaradei once disagreed with the United States on the Iraq war and Iran nuclear issue. This resulted in strong oppose from the United States when he was seeking for re-election in 2005. Finally due to the overwhelming supports from the other Member States of the Board and there was only one candidate, ElBaradei got a conditional approval from the United States to be re-elected as the Director-General in the end. The condition might imply that ElBaradei should consider the United States' concerns more than before although none of sides ever clearly express what the condition means. In addition, each and all previous Director-Generals of the IAEA take the post for long time in more than half century, 18 partly reflected the fact that any new candidate is difficult to be accepted by all relevant Member States, especially by the United States.

Current IAEA Director-General Yukiya Amano (taking office on December 1, 2009) stands closely with western countries on Iran nuclear issue, winning the approval of the United States too. On February 18, 2010, he issued his first report on Iran nuclear issue shortly after his taking the post, asserting that Iran had not fully cooperated with the IAEA, and did not cease uranium enrichment and other sensitive nuclear activities. The report also repeatedly mentioned that Iran may be committed to research and development of missiles which can carry nuclear weapons. 19 Some interviewers noted that this report marked the significant shift in the attitude of IAEA on Iranian nuclear program by sending a clear warning message for the first time that Iran was developing nuclear warheads but did not provide any new evidence as a basis for such new accusation, which offered timely the help to US in its bid for sanctions. 20 Indeed, after the report issued, many western states condemned Iran, calling for the Security Council to expand sanctions on Iran. Russia, usually being wary on Iran nuclear issue, "was shocked and cannot

¹⁷ In Memoriam, Sterling Cole, IAEA Director General from 1957-1961, http://www.iaea.org/About/dg/memoriam_cole.html

¹⁸ former Directors General of IAEA and their terms of time: William Sterling Cole, 1957—1961, American; Sigvard Eklund, 1961—1981, Sweden; Hans Blix, 1981—1997, Sweden; Mohamed ElBaradei, 1997—2009, Egypt; Yukiya Amano, 2009— Janpanse.

See: *Former Directors General*, http://www.iaea.org/About/dg/former_dgs.html

¹⁹ *Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions 1737 (2006), 1747 (2007), 1803 (2008) and 1835 (2008) in the Islamic Republic of Iran*, Report by the Director General, p.9.

http://www.iaea.org/Publications/Documents/Board/2010/Chinese/gov2010-10_ch.pdf

²⁰ Catherine Philp, "Analysis: IAEA's Iran warning offers timely help to US in its bid for sanctions", *Times Online*, February 19, 2010, http://www.timesonline.co.uk/tol/news/world/middle_east/article7033246.ece

accept” such activities. ²¹In order to avoid escalation of the nuclear issue crisis, On May 24, 2010, Iran formally informed the IAEA about the “fuel exchange deal” reached among Iran, Brazil and Turkey after a couple of day’s negotiation. ²²This deal was hoped to diminish the worries of IAEA worries over Iran nuclear activities and preventing a new round of sanctions that might be imposed on Iran. To this fuel exchange plan, UN Secretary General Ban Ki-moon said on the same day, "If the IAEA can accept and implement it, it may become important way to build mutual-trust and open a negotiation door for Iran nuclear problem resolution.“ Many countries in the world also welcome the agreement of the three countries. Even some western countries were compelled by the pressure of public opinion, saying that although the agreement could not resolve the fundamental problem, but also need to consider as a way to ease Iranian stance. What surprised to each side was that both the IAEA and the Director-General did not give any positive response. To the contrary, on May 31, Amano submitted to the Board of Governors a new report on Iran nuclear issue. This new report believed that Iran currently had extracted 5.7kg enriched uranium with purity near 20%. At the same time, Iran had increased the low enriched uranium reserve to 2.4 tons. So, according to the Three-Countries Deal, even taking 1.2 tons of low enriched uranium out for exchange of nuclear fuel, Iran still had enough raw materials to be extracted for more and higher purity uranium. ²³ This conclusion provided further grounds for the United States in the Security Council to promote a new round of sanctions against Iran, while disregarded the Iran-Brazil-Turkey nuclear fuel exchange plan.

The verifications and reports of IAEA on any risks of nuclear proliferation and any possible or definite violations of the NPT are important bases for the international community to take measures. So the report should be objective and neutral. However, these two reports of the February and May of 2010 were so consistent with the United States position on this issue in time and content that some doubts about the neutrality and objectivity of the IAEA and its Director-General were inevitable. In addition to the Director-General who needs approval of the United States, in the composition of the bodies, whether ordinary staff and professional staff, the

²¹ Russia urges Iran to be more cooperative with IAEA, <http://www.reuters.com/article/idUSLDE61100820100219>

²² In order to avoiding the upgrading of the Iran nuclear crisis, on May 17,2010, Iran, Brail and Turkey signed a nuclear fuel exchange contract after some days discuss and negotiation: Iran ships 1200kg low enriched uranium with purity of 3.5% to Turkey, in exchange for 120kg higher enriched uranium with purity of 20% to be used in a nuclear reactor in Iran. But Iran did not give up right to uranium enrichment.

²³ *Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions 1737 (2006), 1747 (2007), 1803 (2008) and 1835 (2008) in the Islamic Republic of Iran*, Report by the Director General, No.A1.12, No.A1.5. <http://www.iaea.org/Publications/Documents/Board/2010/gov2010-28.pdf>

United States takes the highest proportion, especially in the verification and supervision department.

Big powers also play a decisive role in the budget of the IAEA. The vast verification tasks of the IAEA require a large amount of financial support. According to the provisions of the IAEA Statute, the fund primarily comes from assessed and voluntary contributions from Member States. No matter the former or the latter, the United States and other developed countries account for the bulk. The United States pays the highest proportion of contributions as much as up to 25%.²⁴

In terms of technical supports, the IAEA lacks its own independent intelligence gathering system and dependent more on some Member States. In the process of verification, the IAEA also relies heavily on the developed countries for technical staff and technical equipments. Almost all the monitoring and verification work that the IAEA carried on in Iraq after the Gulf war, in North Korea during 1990s, and in Iran since 2003, based on the information provided by the United States satellite reconnaissance and electronic signals interception system.

Conclusion

Undoubtedly, in its more than half century of history, with the continuous development of its organization, function and experience, the IAEA has played an irreplaceable role in the field of international nuclear non-proliferation. It hardly be imagined that if there had no the IAEA, how disorder and troublesome the nuclear proliferation crisis would have become. But carefully examining and reflecting the limitations of the IAEA in its history are more important for the future.

In conclusion, the limitations of the IAEA in preventing proliferation area resulted from two kinds of reasons. One belongs to the inherited limitations. First, as an international organization, the IAEA unavoidably depends on its member states, particularly the powerful ones in such areas as personnel, fund, technologies, etc... Under this condition, the neutral objectivity must be questioned from time to time. Secondly, that lack of strong and effective means for implementation has made the IAEA inevitably resort to the UNSC for taking coercive measures against the violating states. Thirdly, the nuclear issue involves the fundamental

²⁴ Jinkun: "The IAEA in the Centre of Political Turmoil", *Global Times*, 12 Oct. 2005.

conflicts of interests among sovereign states. The IAEA can not safeguard and verify without the relevant states' permission and cooperation. So the limits of role are inevitable.

Meanwhile, in the course of operation, the IAEA also has its own mistakes and flaws, such as dependent on the UNSC too much on resolving the proliferation crisis. In Iran case, under the pressure of a few states, the IAEA submitted the issue to the Security Council so early that lost its initiative on the issue afterwards. Moreover, such actions helped to make the Security Council upgrade sanctions and intensified the conflicts with Iran. In the area of peaceful use of nuclear energy and nuclear nonproliferation, the credibility and authority of IAEA have been undermined due to the lack of uniform standards of treatment to all countries and similar activities.

However, despite the above existing problems and limitations, to strengthen the position of IAEA further, improve its mechanism, rather than tearing down again, still represents the consensus of the international community. But how to strengthen the independence and authority of the IAEA in the future and enhance its role and position in the field of international nuclear non-proliferation require joint efforts of all parties.

Firstly, the IAEA needs to readjust its relationship with the United Nations Security Council, the nuclear powers and non-nuclear member states. Non-proliferation task requires to be implemented in the national level, in addition to international cooperation. Therefore, more serious, close and concrete cooperation and commitments from the non-nuclear member states of the IAEA are the important guarantee for non-proliferation. The UN Security Council resolution No.1540 requires that all countries must adopt a legislation to make the proliferation as illegal and to establish an effective export control regime.²⁵ The first Nuclear Security Summit Communiqué also urges the relevant states to adopt strict domestic laws in order to prevent any proliferation of nuclear materials. In order to achieve these objectives, a truly independent, neutral and authoritative international authority verification agency could gain more support and cooperation of all member states. In nuclear nonproliferation area, nuclear states and the UN Security Council should consider how to strengthen the IAEA and help to make it as a real independent, neutral body to carry on its safeguards tasks instead of intervention

²⁵ *SIPRI Year Book 2005: Armaments, Disarmaments and International Security*. Chinese Version, Beijing: Shishi Publishing House 2006, pp.779-780.

the work of the IAEA. The IAEA itself should reflect its authority and neutrality as an international organization and make more necessary reform in such respects.

Secondly, the IAEA and its Board of Governors should fully take the aspirations of the non-nuclear states into account and help these states to use nuclear energy peacefully without barriers and discriminations. At present, the IAEA is planning to establish nuclear fuel banks in the hope that by centralizing storage of low enriched uranium and providing for nuclear power plants on the market price. By doing so, the chances of nuclear materials and nuclear facilities proliferation could be reduced much since the non-nuclear states don't need to build enriched uranium production facilities on their own. It was regrettable that, in terms of supplies of nuclear fuel, the United States and Russia once again take the leading positions. It is worth attention that how to strengthen the role of the IAEA in unified management of nuclear materials in order to make the future relationship of supply and demand more fair and objective.

Thirdly, in the history of establishment and development, the IAEA has taken a number of verification and supervision tasks of nuclear arms control treaties, relevant organizations, and arrangement systems. At the same time, these treaties, organizations and systems also bear themselves the respective obligations. How to centralize supervision and verification tasks on the shoulder of the IAEA so as to carry out supervision and verification work with unified, homogeneous character is a big problem that needs the international community work together to solve. Some suggestions have been made in order to strengthen the nuclear non-proliferation regime: Nuclear Suppliers Group should adopt a binding policy and require all member states must report the IAEA of each license per export of sensitive nuclear technology and nuclear materials. In addition, in accordance with the resolution No.1540, the UN Security Council should request the IAEA to develop a universally applicable model for compliance with notification requirements as the legal basis to distinguish between licit trade and illicit proliferation.²⁶ These ideas are very inspiring but more important thing is to establish a strict, uniform monitoring, verification system with clear rewards and punishments policies. At the same time, the IAEA must try to be objective, independent and neutral when carry out its functions to different country and in similar cases.

²⁶ George Perkovich etc., *Universal Compliance, A Strategy for Nuclear Security, New: 2007 Report Card on Progress*, Carnegie Endowment for International Peace, p.55.

Finally, one thing should be kept in mind. The IAEA needs to balance the relationship between nuclear peaceful use and non-proliferation. The nuclear weapon states have to balance the relationship of non-proliferation and nuclear disarmament. Economic sanctions would be powerful, so the public opinion. If most people in North Korea and Iran like to be hungry for Bombs, the decision-makers are easy to choose hard policy. Therefore, deep nuclear cuts and more neutrality of the IAEA are benefit tools for curtain nuclear proliferation.