

Iranian Nuclear Imbroglio: The Way Forward

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Summary

A possible first step to resolve the Iranian nuclear imbroglio is for Iran to sign the IAEA Additional Protocol (AP). The AP is an essential instrument apart from the Comprehensive Safeguards Agreement (CSA) to help address the extant unresolved contentions as well as possible future concerns regarding potential Iranian attempts to acquire nuclear weapons grade fissile material. While Iran currently insists that it is not bound to implement a 'voluntary' measure like the AP, it is pertinent to note that the last time it agreed to voluntarily follow its provisions in December 2003 was when the current president-elect Hassan Rouhani was the chief nuclear negotiator. Support for the dialogue process and the need for the Obama administration to get Iran to sign the AP also exists among members of the US Congress. If Iran does sign the AP, India which has a permanent presence on the IAEA Board of Governors, could ensure that the IAEA safeguards department behaves impartially towards Iran and concludes its examination in a frank, free and transparent manner within the time frame agreed to by the parties.

Iran's engagement with the International Atomic Energy Agency (IAEA) and the P5+1 (UN Security Council permanent members and Germany) is currently at a stalemate. There have been 10 rounds of talks since January 2012 between the IAEA and Iran, including a visit by IAEA DG Yukiya Amano to Tehran in May 2012. There has however been no progress in agreeing for a 'structured framework' to address issues like Parchin - a military facility where Iran is alleged to have conducted high-explosives testing activities - which IAEA wants to inspect but Iran is refusing to give access.

The Iran-P5+1 talks are also stuck, despite five rounds since they were restarted in April 2012 in Istanbul. The most recent of these talks were held in Almaty in April 2013. The IAEA in May 2013 reported that Iran had in its possession 8960 kgs of uranium enriched to 5 per cent U-235 and 324 kgs enriched to 20 per cent U-235. All of this material is under IAEA safeguards.

The US meanwhile has continued with its policy of imposing even tougher economic sanctions on Iran. The Iran-related provisions of the 2013 National Defence Authorisation Act are a case in point. In a development that could have a significant bearing on the evolving situation, Dr. Hassan Rowhani is set to take over as the new Iranian President on August 3. Among regional countries, Israel has continued to insist that it will not allow a nuclear Iran and will strive to prevent that possibility. The GCC countries have been stating that they will pursue similar capabilities if Iran does go nuclear. Given the above context, this Policy Brief seeks to examine the potential for a negotiated solution to the now decade-long imbroglio.

The Rouhani Factor: Enhanced Prospects for Dialogue?

The victory of Hassan Rouhani as the new President securing over 50 per cent of the popular vote in an election that witnessed over 72 per cent of voter turnout has given rise to discussions whether the Iranian nuclear imbroglio could be satisfactorily resolved. This is on account of his stated position that his administration of 'prudence and hope' will strive to follow a 'moderate' policy in pursuit of national objectives.¹ If indeed he can do so, this would be in contrast to the confrontationist approach-cum-rhetoric of the Ahmadinejad administration which vitiated rather than helped cool down tensions. It is equally pertinent to note that a new chief negotiator for the nuclear talks will have to be appointed, after the preceding official Saed Jalili lost heavily in the presidential elections to Mr. Rouhani.

¹ See 'Rohani pledges "constructive interaction" with world via moderate policy', June 17, 2013, at <http://www.presstv.com/detail/2013/06/17/309475/rohani-vows-constructive-interaction/> (accessed July 24, 2013).

Rouhani's ability to follow an independent path on the nuclear issue though is conditioned by the fact that the Supreme Leader Ayatollah Ali Khamenei controls the 'nuclear lever' as indeed the policy directions on major foreign policy and national security issues. This is on account of his constitutionally guaranteed control of the regular armed forces, the elite Republican Guard Corps as well as the crucial 12-member Expediency Council. His economic powers include the authority to determine how the country's oil wealth is spent as well as the control of the charitable foundations, whose assets run into billions of dollars.²

Dr. Rouhani had earlier served as the chief nuclear negotiator in his role as the long-standing Secretary of the Supreme National Security Council from October 1989 to August 15, 2005. It is pertinent to note that Iran informed the IAEA about its decision to resume its uranium conversion activities at Isfahan on August 1 and removed the seals on the 'process lines' on August 10, a few days before Mr. Rouhani demitted office. These steps in effect nullified Iran's decisions with Mr. Rouhani at the helm of the negotiations to stop uranium enrichment activities under the terms of the Tehran Agreed Statement of October 21, 2003 as well as the subsequent Paris Agreement of November 15, 2004 agreed to with the government of Britain, France and Germany.³

After winning the June 2013 presidential elections, though Mr. Rouhani has insisted that Iran was 'ready to show more transparency' regarding the country's nuclear programme, he has been affirming that his administration 'will not back down from the country's 'inalienable rights' ...'⁴ Iran has long insisted that it is its 'inalienable right' to enrich uranium being a member of the nuclear non-proliferation treaty (NPT).⁵

An indication of the Supreme Leader's views on the nuclear issue in the aftermath of the presidential elections was his speech to judiciary officials on June 26, 2013. Khamenei insisted that the

'domineering and greedy countries which are led by America and are incited mainly by the Zionists and which falsely refer to themselves as the international community ... do not want Iran's nuclear issue to be resolved. ... On many occasions, we came very close to a solution. ... Even if the nuclear issue were resolved, they would create

² See Karim Sadjadpour, 'The Supreme Leader', at <http://iranprimer.usip.org/resource/supreme-leader> (accessed July 24, 2013).

³ The Tehran Agreed Statement is available at http://www.iaea.org/newscenter/focus/iaeairan/statement_iran21102003.shtml; The Paris Agreement is available at <http://www.iaea.org/Publications/Documents/Infcircs/2004/infcirc637.pdf> (accessed July 24, 2013).

⁴ 'Rohani pledges "constructive interaction" with world via moderate policy', n. 1.

⁵ For an exposition of its views on the issue of uranium enrichment, See 'Iran's Proposals to Six World Powers in Moscow Talks', July 7, 2012, available at <http://english2.farsnews.com/newstext.php?nn=9103085486> (accessed July 12, 2013).

another issue to pressure the Islamic Republic. The goal is to threaten. The goal is to pressure. The goal is to make us tired.’⁶

US Position: Giving Weight to Dialogue

Co-terminus with the pronouncements of Mr. Rouhani, there have been efforts on the part of the members of the US Congress urging the Obama administration to give increased credence to the negotiation process in the aftermath of Rouhani’s election. The most prominent example of this was the July 19, 2013 letter from over 130 Congressmen (overwhelmingly Democrat but including 17 Republicans) urging the administration that ‘it would be a mistake not to test whether Dr. Rouhani’s election represents a real opportunity for progress toward a verifiable, enforceable agreement on Iran’s nuclear programme that ensures that the country does not acquire a nuclear weapon.’⁷

Reports also indicate that the Obama administration was concerned that new sanctions measures being contemplated in the US Congress/Senate targeting Iran’s mining and construction sectors as well as committing the US to end Iranian oil sales worldwide by 2015 could hurt prospects of a potential positive breakthrough in the aftermath of Rouhani’s election.⁸ Under the circumstances, it would be useful to understand the contours of a possible way forward to address the imbroglio. Firstly however, there should be clarity about certain strong policy positions that have bedevilled the dialogue process.

The Non-Negotiables

Given the circumstances and the policy stances of the involved parties thus far, we can be certain to a reasonable extent that some of the positions seem non-negotiable. These include the following:

- Talks without pre-conditions – which the Iranians insist is necessary for the success of conversation ‘among equals’ to take place
- Suspension of uranium enrichment activities – which the P5+1 insist is essential as mandated by the various UNSC/IAEA resolutions. However, given that Iran views

⁶ ‘Supreme Leader’s Speech to Judiciary Officials’, June 26, 2013, at http://english.khamenei.ir//index.php?option=com_content&task=view&id=1806 (accessed July 11, 2013).

⁷ The text of the letter is available at http://www.niacouncil.org/site/DocServer/Dent-Price_Letter_FINAL.pdf?docID=2181 (accessed July 24, 2013).

⁸ Bradley Klapper, ‘Congress, Obama at odds over new Iran sanctions’, July 23, 2013 at <http://news.yahoo.com/congress-obama-odds-over-iran-sanctions-071150782.html> (accessed July 24, 2013); See also ‘Obama Officials Want to Slow Iran Penalties Push’, July 23, 2013, at <http://www.nti.rsvp1.com/gsn/article/white-house-iran-penalties/?mgh=http%3A%2F%2Fwww.nti.org&mgh=1> (accessed July 24, 2013).

this as an 'inalienable right' - and having spent so much political capital for so long on insisting on this right - it is not conceivable that Iran's leadership would risk being seen as 'capitulating to Western pressure' and the concomitant domestic political backlash and forced to stop its enrichment activities

- Lifting of sanctions - which Iran insists is essential for any forward movement but which is being denied by the P5+1 in the absence of certainty of verifiable steps by Iran to restore confidence in the 'exclusively peaceful nature' of its nuclear programme. It is equally pertinent to note that given that these sanctions once lifted will be very difficult to be imposed again in case there is no forward movement to address Iran's nuclear concerns - especially because a lot of political 'heavy-lifting' accompanied these measures more so with regard to those imposed by the UN and the EU - the Obama administration as well as Iran's interlocutors will be very reluctant to consider this step.

Iran's Fissile Material Capabilities

The authoritative reports on the status of Iran's nuclear programme are those which are given quarterly to the IAEA Board of Governors by the Safeguards Department. There have been 41 reports so far till May 2013. From these reports, it is amply clear that Iran has been increasing the number as well as the sophistication of operational centrifuges as well as the amount of nuclear material in its possession. Since it restarted its enrichment activities in August 2005, the May 2013 report to the IAEA BOG indicates that Iran has in its possession 8960 kgs of UF₆ enriched up to 5 per cent U-235 and 324 kgs enriched up to 20 per cent U-235. The amount of 20 per cent U-235 was 44 kgs more than the figure mentioned in the February 2013 report. Out of the 324 kgs, 142 kgs was being processed into uranium fuel pellets, effectively leaving only 182 kgs UF₆ enriched to 20 per cent U-235 in Iran's possession.⁹

Given the above, if it is assumed that Iran would require 240 kgs of UF₆ enriched to 20 per cent U-235 to produce enough weapons grade uranium (enriched to above 90 per cent for one nuclear device), it could potentially take Iran 3-4 months (September 2013 at the most at current enrichment rates, unless Iran decides to convert some more of this material into nuclear fuel pellets) to acquire sufficient quantities of the fissile material sufficient for one device.

Even if it acquires sufficient quantities of weapons grade uranium, it needs to be borne in mind that Iran has to further machine this material into a weapon design - along with the

⁹ 'Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran', May 22, 2013, p. 3, at <http://www.iaea.org/Publications/Documents/Board/2013/gov2013-27.pdf> (accessed July 24, 2013).

concomitant requirements like conventional explosives for triggering an implosion device if it pursues that design - which could conservatively take it anywhere between 6 months to 1 year.

Pathways to becoming Nuclear Weapons Capable

The issue that needs to be considered now is in what way Iran could possibly pursue its alleged goal of acquiring a nuclear weapons capability. It could do so potentially in two ways - either within the confines of the NPT or outside of it. If Iran quits the NPT of course, it will immediately raise 'red flags' among members of the international community as to its intentions and motives. There have been some instances of Iranian lawmakers (including President Ahmadinejad) in the past threatening to do so in the face of rising international pressure.¹⁰ The prospects of such an eventuality though seem remote, given that the benefits accruing to Iran from its NPT membership far outweigh the definite negative repercussions.

If it indeed takes steps to enrich uranium to weapons grade by continuing to be a member of the NPT, it will not be difficult for the IAEA inspectors - whose current inspection frequency gives them access to enrichment plants at Fordow and Natanz at least once in a week - to potentially notice the activity and inform the IAEA BOG.¹¹ It is equally pertinent to note that although the report to the IAEA BOG on Iran's nuclear activities is released quarterly, IAEA inspectors could potentially inform the BOG of any diversion or enrichment to weapons grade material within a week, given the extant inspections regime.

Iran could potentially get near the desired quantities in less than a week's time if it dramatically expands its enrichment capabilities. This does not of course preclude the IAEA from increasing the frequency of its safeguards inspections to detect a potential break out effort. It is therefore very difficult for Iran to accumulate sufficient weapons grade fissile material without the international community getting to know about it or having a lead time of 6 months-1 year to deal with such an eventuality.

The other alternative for Iran (while continuing to be a member of the NPT) is to develop the capability covertly. Unlike India, Pakistan and to some extent North Korea - where IAEA had no safeguards inspections - Iran continues to be under safeguards. In the case of the former three countries, the international community had no firm estimates of the

¹⁰ 'Iran "could quit nuclear treaty"', February 11, 2006, at http://news.bbc.co.uk/2/hi/middle_east/4703434.stm (accessed March 16, 2010). This was in the aftermath of Iran's referral to the UNSC.

¹¹ Barbara Slavin, 'Tight IAEA Inspection Regime Hampers Iran's Nuclear Breakout', July 22, 2013, at <http://www.al-monitor.com/pulse/originals/2013/07/iran-nuclear-capacity-iaea-inspections-centrifuges-enriched.html> (accessed July 24, 2013).

quantities of fissile materials in their possession, other than those based on intelligence sources, national technical means or 'guesstimates' of think tanks or analysts. In the case of Iran of course, there is precise knowledge of the fissile material quantities given the 'robust' inspections regime covering its 16 declared nuclear facilities, inclusive of the two enrichment facilities.

The only covert option left for Iran to build sufficient quantities of weapons-grade fissile material by continuing to be a NPT-member state is in undeclared facilities. It could use its uranium resources and the expertise gained by the running of the declared enrichment facilities at Natanz and Fordow to build more efficient infrastructure. Given Iran's 'past pattern of concealment' as well as undeclared nuclear activities, the international community could have some concerns about this possibility.

Iran for instance had informed the IAEA about the Fordow enrichment plant near Qom in September 2009. The IAEA insisted that based on commercial satellite imagery among other inputs, the construction of the plant had begun as early as 2002 and that design work had started in 2006. The IAEA BOG went on to note that

Iran's declaration of the new facility reduces the level of confidence in the absence of other nuclear facilities under construction and gives rise to questions about whether there were any other nuclear facilities in Iran which had not been declared to the Agency¹²

One of the earliest instances of non-declaration was its import of nuclear material in 1991 - UF₆ (1000 kg), UF₄ (400 kg; converted to uranium metal in 2000) and UO₂ (400 kg) - which it informed the agency only in February 2003. Among other such activities, Iran acknowledged in October 2003 that it had a laser enrichment programme between 1991 and 2000, during which it had used 30 kgs of uranium metal 'not previously declared to the agency'.¹³

Though such issues were addressed as part of the Iran-IAEA Work Plan of August 2007, concerns continue to remain as indicated in the IAEA reports. The February 7, 2010

¹² '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', November 16, 2009, p. 4, at <http://www.iaea.org/Publications/Documents/Board/2009/gov2009-74.pdf> (accessed July 25, 2013). The declaration of the Qom facility however followed legal wranglings as to Iran's obligations to declare a facility in which no nuclear material had been introduced under the terms of the then extant provisions governing its interactions with the IAEA, specifically those relating to Code 3.1 of its Subsidiary Arrangement.

¹³ 'Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran: Report by the Director General', November 10, 2003, p. 4, at <http://www.iaea.org/Publications/Documents/Board/2003/gov2003-75.pdf> (accessed July 25, 2013).

statement of President Ahmadinejad on Iran possessing laser enrichment technology is one such issue.¹⁴ The IAEA DG in the May 2013 report notes that the Agency is unable to verify such statements due to 'lack of cooperation' on the part of Iran.

Another potential avenue for Iran is of course to 'buy' a weapon - from North Korea for instance - and test it to demonstrate its weapons capability. Such an option of course will leave it open to an almost definite Israeli/US military strike, to not only set back its nuclear facilities but also target its economic assets like oil and gas producing infrastructure. This would in all likelihood be undertaken to cripple the Iranian ability to recoup and give it the necessary wherewithal to restart an indigenous programme. This is because Israel (or more specifically the current Israeli government headed by Benjamin Netanyahu) considers a nuclear weapons-capable Iran an existential threat. It is pertinent to note that Netanyahu continues to head a coalition government for the second consecutive term, indicating to some extent that there is broad consensus regarding the nature of the threat posed by Iran.

A Way Out: The Additional Protocol

Given the above context, it is pertinent to examine whether an acceptable solution can be found between the US and its allies in resolving the Iranian nuclear imbroglio without sacrificing the core interests of either of the parties involved. For Iran, these core interests at the minimum involve guarantees against regime change efforts, and that its rights under the NPT should be respected, especially relating to its enrichment activities. For the US and Israel, their core interests are to ensure that Iran does not embark on a nuclear weapons path. Can these be reconciled?

The main concern bedevilling the issue is the inability of the IAEA to convincingly certify that no non-peaceful activities are taking place inside Iran ('completeness'), along with ensuring that no diversion of fissile material ('correctness') is taking place. The IAEA has been able to certify both 'completeness' and 'correctness' even in countries with far significant nuclear infrastructure like Canada or South Korea.

It is pertinent to note that such countries have both the Comprehensive Safeguards Agreements (CSA) in place as well as the Additional Protocol (AP). The Model AP (INFCIRC 540) was approved by the BOG on May 15, 1997.¹⁵ The AP according to the IAEA Fact Sheet is a 'legal document' whose 'principal aim is to enable the IAEA

¹⁴ See 'Good nuclear news, Iran possesses laser enrichment technology', February 7, 2010, at <http://www.president.ir/en/20255> (accessed February 27, 2013).

¹⁵ The document is available at <http://www.iaea.org/Publications/Documents/Infcircs/1997/infcirc540c.pdf>

inspectorate to provide assurance about both declared and possible undeclared activities'.¹⁶

The IAEA Safeguards Statement for 2012 released on July 2, 2013 indicates that as of December 2012, 114 states (out of 179 states with safeguards agreements in force) had both the CSA and AP in place. The IAEA was able to verify in 60 of these states that 'all nuclear material remained in peaceful activities'. For the other 54 states, while no declared nuclear material was diverted, the evaluation regarding the absence of undeclared activities was ongoing. In 57 states with CSA in place but without an AP, the IAEA was able to verify 'correctness'.¹⁷

Therefore in case Iran signs the AP, it should equally be possible for the BOG and the IAEA to provide a time frame within which they would be able to affirm with a certain degree of confidence – this time frame to be negotiated between the IAEA, Iran, and the P5+1 – that they can assure both completeness and correctness as regards Iran's activities. As and when the IAEA is able to do so, and it is established that Iran does not have a nuclear weapons programme, the international community should potentially have no issues with Iran's enrichment activities. Further, Iran signing the AP should potentially address concerns regarding the possibility of Iran pursuing enrichment activities covertly in undeclared facilities.

While Iran currently insists that it is under no obligation to sign a 'voluntary measure' like the AP, it had decided to voluntarily follow the AP in December 2003 (though it was not ratified by the *Majlis*) but went back on its decision in February 2006 in the aftermath of its referral to the UNSC. The referral was of course on the back of Iran re-starting its enrichment activities in August 2005. Given that Iran had once accepted to follow the provisions of the AP, it suggests that it has no ideological opposition to such a step. Further, the previous time Iran signed the AP was when the current president-elect was heading the nuclear negotiating team.

It is pertinent to note that there is support even among members of the US Congress to get Iran to sign the AP. The 'Prevent Iran from Acquiring Nuclear Weapons and Stop War through Diplomacy Act' bill that was introduced on February 15, 2013 by Representative Barbara Lee (Democrat from California) states that

'it should be the policy of the US government to secure an agreement that ensures Iran does not engage in nuclear weapons work and that Iran's nuclear enrichment program

¹⁶ See 'IAEA Safeguards Overview: Comprehensive Safeguards Agreements and Additional Protocols', at http://www.iaea.org/Publications/Factsheets/English/sg_overview.html (accessed February 26, 2013).

¹⁷ 'Safeguards Statement for 2012', http://www.iaea.org/safeguards/statements-repository/Section_AB_SIR_2012.pdf (accessed July 25, 2013).

is verifiably limited to civilian purposes through the implementation of robust safeguards and enhanced IAEA inspections, including through the implementation of the Additional Protocol;

There are unsubstantiated reports that Iran had in the recent past accepted a Russian proposal (in July 2011) to 'suspend further enrichment capacity and accept the International Atomic Energy Agency's "additional protocol" for intrusive inspection.'¹⁸ If this was indeed true, Iran signing the AP could provide one satisfactory way to come to an agreement whereby its right to uranium enrichment would not be compromised, Israel's as well as the international community's fear of Iran acquiring nuclear weapons would be allayed, and sanctions imposed on Iran can be rolled back so that its economy can get back to stable conditions.

This also gels with the IAEA's long-standing demand as stated in the November 2003 report of the IAEA BOG that 'given Iran's past pattern of concealment, it will take some time before the Agency is able to conclude that Iran's nuclear programme is exclusively for peaceful purposes. To that end, the Agency must have a particularly robust verification system in place. An Additional Protocol, coupled with a policy of full transparency and openness on the part of Iran, is indispensable for such a system.'¹⁹

The May 2013 report reiterates that the 'Agency will not be in a position to provide credible assurance about the absence of undeclared nuclear material and activities in Iran unless and until Iran provides the necessary cooperation with the Agency, including by implementing its Additional Protocol.'²⁰ The IAEA Safeguards Statement for 2012 released on July 2, 2013 further notes that while the Agency has the authority under a CSA to verify both completeness and correctness, 'the tools available to the Agency under such an agreement are limited. The Model Additional Protocol ... equips the Agency with important supplementary tools that provide broader access to information and locations.'²¹

¹⁸ David Ignatius, 'The Iranian view on how to strike a deal', May 25, 2012, at http://www.washingtonpost.com/opinions/on-iran-more-time/2012/05/24/gJQAH7zOoU_story.html (accessed July 24, 2013).

¹⁹ See 'Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran: Report of the Director General', November 10, 2003, p. 10, <http://www.iaea.org/Publications/Documents/Board/2003/gov2003-75.pdf> (accessed July 24, 2013)

²⁰ 'Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran', n. 9, p. 12.

²¹ 'Safeguards Statement for 2012', n. 15.

India's Role

There has been a constant stream of opinion expressed (both domestically and from commentators from the West Asian region) that India should be doing more to help resolve the Iranian nuclear concerns. This has been both on account of factors of geography as well as India's continuing trade and energy cooperation with Iran, which has rankled the US and Israel as a negative step when the 'international community' is trying to isolate Iran in order to force it to address its nuclear concerns.

A potential way India could play a more active and direct part in the resolution of the issue is through its presence on the IAEA BOG. If indeed Iran can sign the AP, India, as one of the founder members of the IAEA and having a permanent presence on the Board of Governors, could exercise a certain degree of influence within that organisation to ensure that the IAEA safeguards department behaves impartially towards Iran and concludes its examination in a frank, free and transparent manner within the time frame agreed to by the parties.