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Iran on the Boil in the IAEA Boardroom: Russia, the West, and NPT Obligations

GLOBAL SECURITY

POLICY BRIEF

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The European Leadership Network (ELN) is an independent, non-partisan, pan-European NGO with a network of nearly 200 past, present and future European leaders working to provide practical real-world solutions to political and security challenges.

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Executive Summary

Differences between the Russian Federation and the United States in the Board of Governors at the International Atomic Energy Agency (IAEA) may inhibit multilateral verification of Iran's safeguards obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). These obligations are the very baseline for the Joint Comprehensive Plan of Action (JCPOA) that the E3+3 (United Kingdom, France, and Germany plus Russia, China, and the US) concluded with Iran in 2015.

The US and Western states support the IAEA Secretariat in pressing Iran to cooperate and, specifically, to explain findings from 2019 that suggest that Iran has not declared all its nuclear materials. Russia, joined by Iran, has objected to the IAEA prioritising this effort. To help resolve this emerging conflict, the IAEA Secretariat should explain to member states on the board why it is important and urgent that Iran cooperate with the IAEA. Underlined by a mutual US-Russian understanding, Russia could prevent crisis escalation by conditioning its support for Iran upon Iran's cooperation with the IAEA. More generally Washington and Moscow should attempt to reestablish common nonproliferation understandings at the IAEA; what for several decades beginning during the Cold War had been a comprehensive and lasting comity between the two countries is now broken.

Introduction

Argentinian Ambassador Rafael Grossi, who took charge of the International Atomic Energy Agency on 3 December 2019, is staring down the barrel at perhaps his agency's most immanent challenge: managing re-emerging conflict in the IAEA Board of Governors over nuclear verification in Iran. The technical and political challenges of dealing with Iran at the IAEA have always been difficult, but now these are stoked by rivalry and conflict between Russia and the United States.

Grossi will convene his first board meeting as IAEA Director General the week of 9 March 2020. Looking toward and beyond that encounter, Grossi said during a public appearance at the Carnegie Endowment for International Peace, in Washington, D.C., on 5 February 2020, "There will be a time when I come... to Iran asking them to do the right thing: to work with the agency. And at that moment, not only just the subscribers [to the JCPOA] but other countries, especially in the Board of Governors, will have to stand with the agency. That is what I hope."

Iran may or may not "do the right thing," and how far the IAEA can go in pressuring Iran will be in large part determined by US-Russian relations. At the level of high politics, what has been unfolding in the boardroom reflects growing tensions between two powerful IAEA member states; their different assessments of the international security threat posed by

Iran; and Iran's growing political and military influence in the Middle East. Geopolitics aside, tensions between the US and Russia also centre on nuclear verification; for about a decade Washington and Moscow have been drifting apart over how the IAEA is adapting its safeguards system to changes in the the international nuclear landscape.

The IAEA has two verification roles vis-à-vis Iran. One follows from its participation in the 2015 JCPOA, the other from Iran's 1974 bilateral NPT safeguards agreement with the IAEA. On both fronts, conflict between Russia and the US has arisen.

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For the new IAEA Director General, what is at stake is the IAEA's authority, including its responsibility to determine that states that are legally obligated not to possess nuclear weapons provide correct and complete declarations, thus enabling the IAEA

to verify that no nuclear material has been diverted from peaceful to non-peaceful uses.¹ This challenge came to the fore in Iran in 2019 when an IAEA analysis of six environmental samples taken at a site in Iran revealed evidence that Iran had not declared its entire inventory of processed uranium.

Conflict over the JCPOA

The IAEA is not a party to the JCPOA but in September 2015 the IAEA's Board of Governors (BOG), its most important policy organ comprising 35 member states, agreed to carry out the monitoring and verification for the JCPOA parties in addition to the IAEA's regular safeguards work in Iran. Since JCPOA implementation began in 2016, the IAEA Secretariat has routinely reported to the BOG on its monitoring and verification work in Iran following

1 Specifically, the interaction between states and the IAEA for safeguards implementation is expressed in Paragraph 7 of the model Comprehensive Safeguards Agreement [INFCIRC/153 (Corrected)] included in the case of Iran's safeguards agreement (INCIRC/214):

"The Agreement should provide that the State shall establish and maintain a system of accounting for and control of all nuclear material subject to safeguards under the Agreement, and that such safeguards shall be applied in such a manner as to enable the Agency to verify, in ascertaining that there has been no diversion of nuclear material from peaceful uses to nuclear weapons or other nuclear explosive devices, findings of the State's system." <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1972/infcirc153.pdf>

This is also the basis for Paragraph 7(b) of Iran's comprehensive safeguards agreement (INFCIRC/214) <https://www.iaea.org/sites/default/files/publications/documents/infcircs/1974/infcirc214.pdf>

from the IAEA's responsibilities under both Iran's safeguards agreement and the JCPOA.

Decision making for the JCPOA is the responsibility of the parties to the accord, not the IAEA board. Nonetheless, after US President Donald Trump's 2018 unilateral abrogation of the agreement, followed by Iran's step-wise suspension and reversing of its nuclear commitments, the IAEA began to adjust to US plans for its "maximum pressure" campaign. Elements of that campaign included raising the alarm that Iran was "escalating" its nuclear threats and making assertions that Iran was preparing to "break out" of the NPT.²

The US called for an extraordinary IAEA board meeting³ on July 10 2019 under the BOG's rules of procedures.⁴ Because the BOG is not the locus of JCPOA decision making and because another BOG meeting would be held in two weeks, some participants said privately they viewed the US action as potentially crisis-escalating. Russia openly and severely criticised the US move as a "ridiculous contradiction" since the US had quit the agreement.

2 Aljazeera "US Warns Iran is Preparing a 'Nuclear Breakout,'" November 8, 2019 <https://www.aljazeera.com/news/2019/11/warns-iran-preparing-nuclear-breakout-191107144101560.html>

3 Francois Murphy et al. *Reuters*: "U.N. Nuclear Watchdog's Board to Meet on Iran at Request of U.S.," July 5, 2019

4 International Atomic Energy Agency: Provisional Rules of Procedure of the Board of Governors as Amended Up To 23 February 1989, (GOV/INF/500/Rev. 1), December 1992, p. 4-5.

Media reporting thereafter reflected statements by Russia in the boardroom that there was no urgency to address compliance issues and that Iran's behaviour poses no proliferation risk, while assigning the US the blame for reductions in Iran's JCPOA commitments.⁵

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In January 2020, Russia weighed in again, calling the decision of the United Kingdom, France, and Germany to invoke the JCPOA's Dispute Resolution Mechanism a “thoughtless action” that could lead to a “new escalation around the Iranian nuclear accord.”⁶

Conflict over IAEA Safeguards

In her statement to the Board on 10 July 2019, US Ambassador Jackie Wolcott tied the issue of Iran's “nuclear escalation” to an emerging standoff

5 Islamic Republic News Agency, “Recent Meeting of IAEA's Board of Governors Lesson for US-Russia,” July 12, 2019

6 James Carstensen, “Iran Issues Threats, Russia and China React Negatively to E.U. Nuclear Deal Dispute Action,” *CNS News*, January 15, 2020

between the IAEA Secretariat and Iran over IAEA verification related to third-party information made available by an IAEA member state about Iran's nuclear activities.⁷

This matter unfolded after Israeli intelligence personnel in 2018 stole from a site in Tehran an “archive” of cached official documents concerning Iran's nuclear programme, including potentially damning information about Iran's prior nuclear weapons exploration activities.⁸ On the basis of information from these documents, the IAEA formally requested Iran to agree to a so-called “complementary access” visit to a location in suburban Tehran. Iran cooperated with the request and IAEA personnel in February 2019 took six environmental samples at the location. IAEA forensic laboratories thereafter analysed these samples; they found particles of processed uranium suggesting that they derived from uranium conversion activities. Neither the material nor the location had been declared by Iran to the IAEA.⁹

In posting Ambassador Wolcott's remarks on its official website, the US Mission in Vienna said after the

7 Jackie Wolcott, “Special IAEA Board of Governors Meeting on Iran: U.S. Statement,” *US Department of State*, July 10, 2019 <https://vienna.usmission.gov/special-iaea-board-of-governors-meeting-on-iran-u-s-statement/>

8 *Times of Israel*, “IAEA: Uranium Traces Found at Undeclared Iranian Site,” November 11, 2019

9 Mark Fitzpatrick, “Finding Evidence of Undeclared Past Nuclear Activity in Iran Shows the IAEA Process is Working,” *IJSS Survival Editors' Blog*, July 15, 2019

meeting that “the Board spoke with one voice” in supporting the IAEA’s verification activities in Iran. Russian Ambassador Mikhail Ulyanov remarked during the second half of 2019 more than once that the US was “isolated” in the IAEA boardroom over Iran issues.¹⁰ In fact IAEA members’ views on this were not consensual, a state of affairs that became expressly manifest on 7 November 2019, when Acting IAEA Director General Cornel Feruta, in step with continuing US pressure on Iran, convened a second extraordinary board meeting. That meeting was called after Iran had failed to explain the forensic findings to the IAEA Secretariat through October. Following the 7 November 2019 discussion, the situation in the board on this issue looked like this:

- The US and a number of other states, mostly European Union members and other Western allies, were on record fully endorsing the Secretariat’s urgency in pressing Iran to explain the IAEA’s 2019 forensic findings. In addition these states raised concern in the light of what the Secretariat described to board members as Iran’s unwarranted interference with and detention of an IAEA inspector in the country.
- China tempered its statement by urging the Secretariat to be “impartial” in doing its verification work. EU states included in their

statements support for the JCPOA.

- Russia, supported by non-board-member states, most prominently Iran and Syria, opposed the IAEA’s pursuit of urgent clarification by Iran of the 2019 forensic information pointing to undeclared nuclear materials and activities.

The Secretariat told the BOG in September and November that Iran must provide full and timely cooperation with the IAEA relating to the completeness of Iran’s safeguards declaration. The Secretariat’s position, and that of the US, EU states, and other Western allies, was consistent with past resolutions of IAEA member states about the IAEA’s safeguards authority and obligations, particularly in the wake of past revelations that Iraq and North Korea had carried out undeclared nuclear activities related to nuclear weapons development. The background for the Secretariat and supporting member states taking this position included this:

In February 1992, the Board of Governors affirmed that the scope of comprehensive safeguards agreements was not limited to verification of the non-diversion of nuclear material actually declared by a State, but included verifying the absence of undeclared nuclear material and activities in the State. Expressed differently, the Board confirmed that, in accordance with para. 2 of INFCIRC/153 (Corr.), the IAEA has the right and obligation

¹⁰ Mikhail Ulyanov, Twitter Postings, September 10, November 7, November 21 2019

*under such agreements to verify not only that State declarations of nuclear material subject to safeguards are “correct”, but that they are also “complete”.*¹¹

The critical point for the Secretariat and many board members is that Iran’s obligation to explain the 2019 forensic findings derives from its NPT safeguards agreement with the IAEA and that this obligation has long been understood by both the Secretariat and by IAEA member states. From a legal point of view, Iran’s obligation to provide information deemed necessary by the Secretariat is independent of the requirements contained in the JCPOA.

Russia’s Objections

In November 2019, however, Russia asserted that the IAEA is singling out Iran, and argued that neither Iran’s crossing of JCPOA red lines since the Trump walk-out nor Iran’s lack of full cooperation with the Secretariat concerning the forensic data currently poses a proliferation threat.¹²

Why would Russia oppose both the Secretariat and many board members on a matter that the Secretariat had concluded merited convening an

11 Laura Rockwood, *Legal Framework for IAEA Safeguards*, International Atomic Energy Agency, 2013, p. 13

12 On Sept. 7 2019, for example, Ambassador Ulyanov tweeted that the “decision by Iran to use more advanced centrifuges shouldn’t be overdramatized. No proliferation threat... New activities will remain verifiable by IAEA and reversible.”

extraordinary BOG session? The answer appears to be that Russia has important real and perceived shared interests with Iran, as well as strongly-held views about the conduct of multilateral nuclear verification that it considers relevant to the IAEA’s actions in Iran.

Interests

Relations between Russia and Iran over the years have been up and down and historically Iran has at times regarded Russia with suspicion. Currently, Russia and Iran appear to have significant shared interests, some of which may be strategic and some opportunistic. These include the emergence of a multipolar world, as well as opposition to US unilateralism, to regime change, and to US and NATO operations in the Middle East. Both countries see the value in growing military cooperation in the region—especially in Syria—and Russian military sales. Both aspire to greater access to the Mediterranean Sea. Both states are disappointed in the results of hoped-for greater cooperation with the West (Iran since 2015 and Russia since the 1990s), and both are targets of Western economic sanctions. Iran is a power in the centre of the Middle East and Russia may view it as a key to Russia’s rise as a strategic player in the region and beyond.

In the nuclear area, Russia shares the perspective of the US, China, and European states in the JCPOA that Iran should not become a nuclear weapons

possessor state. But Moscow's view of Iran's nuclear programme appears on balance to be more relaxed than that of the US and Western states.¹³ While Western states have been cautious about entering into significant civilian nuclear cooperation projects with Iran, Russia's bilateral nuclear cooperation, which began in 1994 with construction of the Bushehr-1 nuclear power plant, is set to continue into the 2020s and beyond including the construction of additional power reactors.¹⁴

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Safeguards Principles

Especially since 2012, including in the BOG, Russia has also expressed principles and concerns about nuclear

13 Ellie Geranmayeh and Kadri Link, *The New Power Couple: Russia and Iran in the Middle East*, European Council on Foreign Relations Policy Brief, September 2016 https://www.ecfr.eu/page/-/ECFR_186_-_THE_NEW_POWER_COUPLE_RUSSIA_AND_IRAN_IN_THE_MIDDLE_EAST_PDF.pdf

14 "Tehran, Moscow Begin Construction of Bushehr Nuclear Reactor," *Power Engineering International*, November 11, 2019 <https://www.powerengineeringint.com/2019/11/11/tehran-moscow-begin-construction-of-bushehr-nuclear-reactor/>

verification in response to changes in direction and emphasis articulated by the Secretariat since the 1990s concerning the safeguards system. The new concept became generally known as "state-level safeguards." While the IAEA's safeguards system initially and for many years relied on inspectors routinely verifying states' accounting of all nuclear materials declared to the IAEA, under the "state-level" concept the IAEA would also rely on other sources of information to derive a holistic understanding about states' nuclear activities; information sources would include data provided by third parties including in some cases other states' intelligence-based information shared with the IAEA.

Including in the IAEA boardroom, in recent years Russia has raised critical questions and objections about how the Secretariat is moving forward with its evolution of the safeguards system. In particular, Russia has warned that, as IAEA safeguards departs from universal technically-defined criteria, applied to all states, and toward a more flexible and potentially more subjective approach, the IAEA needs to assure member states that conclusions under "state-level" safeguards are as objective as conclusions drawn in a criteria-based process. Russian experts have also suggested that the system could be abused by member states to result in IAEA judgments that are discriminatory and that may damage their adversaries.

More generally, Russian officials

recently, including in Vienna, have criticised what they depict as a Western effort to create a global “rules-based order” that exceeds international law. It is possible that Russia regards the evolution of IAEA safeguards along the lines of the “state-level” concept—generally supported by the US and Western states—as an instance where the West aims to coerce other states to undertake new verification obligations exceeding their present NPT commitments.

Convergence of Interests and Principles

In the BOG on November 7, Russia was joined by Iran and Syria in objecting to the Secretariat pressuring Iran to provide information. In light of developments in the Middle East where Russia has skillfully inserted itself as a major diplomatic actor in support of both Iran and Syria, this alignment is not a coincidence. Both Syria and Iran are critical to Russia’s engagement in the Middle East and Syria is a theatre where Russian and Iranian interests join. Syria and Iran are also states where Russia has highlighted its concerns about how the IAEA implements safeguards.

For nearly a decade before Russia and the West differed over the Secretariat’s pursuit of a complete nuclear declaration from Iran, Russia pushed back against efforts by the IAEA Secretariat, likewise supported by Western states, to prioritise Syria’s lack of cooperation with the IAEA in

resolving outstanding NPT safeguards completeness issues.

In June 2011 Russia and China opposed a BOG resolution, supported by the US and Western states, that referred Syria’s lack of cooperation with the Secretariat to the United Nations Security Council.¹⁵ Russia deplored the finding by the Secretariat that an installation in Syria destroyed by an Israeli air strike in 2007 was “very likely a nuclear reactor,”¹⁶ contrary to the assertions of the Syrian government. Russia objected that the board should not refer a state to the Security Council on the basis of an uncertain and unverified safeguards conclusion by the Secretariat;¹⁷ one former IAEA official observed at that time that the finding raised legitimate “conceptual issues about how the IAEA Secretariat draws safeguards conclusions” that were not lost on Russian critics. Because Damascus is beset with a civil war, the Assad government’s nuclear program is apparently at a standstill; in the Russian view, prompt attention

15 Jonathan Marcus, “UN Nuclear Watchdog Refers Syria to Security Council,” *BBC News*, June 9, 2011 <https://www.bbc.com/news/world-middle-east-13717874>

16 Peter Crail, “IAEA Sends Syria Nuclear Case to UN,” *Arms Control Association (Blog)* June, 2011 <https://www.armscontrol.org/act/2011-07/iaea-sends-syria-nuclear-case-un>

17 In the words of Russian Ambassador Ulyanov: “We consider it shameful that in 2011 the IAEA reported that [the] ruined facility in Dair Alzor ‘was very likely a nuclear reactor.’ Such language is for some politicians. For professionals, there are three options: guilty, innocent, or ‘we don’t know, investigation will continue.” (Mikhail Ulyanov Twitter Posting November 7, 2019).

In November 2019, Russia explained in the board that, according to the IAEA's annual Safeguards Implementation Report for 2018, Iran is but one of a number of states that, according to the Secretariat, have outstanding safeguards declaration completeness issues; none of these cases has prompted the US or the Secretariat to convene extraordinary board meetings or otherwise prioritise near-term resolution.

by the Secretariat to the completeness of Syria's nuclear declaration is therefore not justified. As in the above-mentioned relaxed Russian reaction to Iran's behaviour concerning its JCPOA commitments and NPT obligations, the bottom line for Russia's statements on Syria is that Syria's nuclear program is currently not a proliferation threat.

Like Syria during the past decade, Moscow may today view Iran as a state where Russia's principled concerns about safeguards converge with Russian political interests. As in the case of Syria, Russia faults the US and Western states, together with the IAEA Secretariat, for escalating the Iran crisis in Vienna, and in discriminating against a state which is an adversary of the US. In November 2019, Russia explained in the board that, according to the IAEA's annual Safeguards Implementation Report for 2018, Iran is but one of a number of states that, according to the Secretariat, have outstanding safeguards declaration completeness issues; none of these cases has prompted the US or the Secretariat to convene extraordinary board meetings or otherwise prioritise near-term resolution.

Conclusion and outlook

Addressing differences inside the IAEA board on nuclear verification that divide the member states and thereby detract from the Secretariat's work requires both near-term and

longer-term actions. The long term involves matters of principle and understandings about how the IAEA makes safeguards judgments. Near term actions should be aimed at assuring that the IAEA obtains information from Iran that it needs to make sound verification judgments under both its comprehensive safeguards and JCPOA mandates.

Over the longer term, the new IAEA Director General should re-commit the agency to the goal of creating consensus understandings about safeguards. This process got started after Russia raised fundamental problems about "state-level" safeguards at a board meeting in June 2012. What unfolded in the BOG in 2019 on Iran revealed that the IAEA has more work to do to overcome perceptions and concerns that the safeguards system may evolve such as to permit discrimination and unfounded judgments. Russia, it should be underscored, is critical of the IAEA's fact-finding approach in Iran and Syria without explicitly challenging the IAEA's legal authority to make judgments or pursue safeguards correctness.

There is also the need for a return to mutual nonproliferation understandings between Russia and the West. During the Cold War, both Washington and Moscow agreed to set aside their geopolitical rivalry to police their allies' nuclear behaviour. That understanding held for several decades but today it is broken. Today,

Russia and the US do not even agree whether Iran's nuclear programme is a near-term proliferation hazard. Nor do they appear to share any common analytic views about how to determine the point at which a country should be understood as a proliferation threat.

A conversation between Moscow and Washington on re-establishing nonproliferation understandings including concerning the IAEA's verification mandate and activities will require time and patience, but it should begin in the near term and at a high level, about Iran.

A conversation between Moscow and Washington on re-establishing nonproliferation understandings including concerning the IAEA's verification mandate and activities will require time and patience, but it should begin in the near term and at a high level, about Iran.

Russia has key interests in Iran. The US and its European allies during the

run-up to the conclusion of the JCPOA, may not have adequately recognised and understood these interests.

Russia wants Iran to remain a non-nuclear-weapon-state in the NPT, but it needs to make clear to the West how important its interests are in Iran, particularly interests that appear to diminish or moderate Russia's support for IAEA efforts to resolve legitimate concerns that Iran may be concealing nuclear materials and activities.

Russia knows that its investment in forming closer ties with Iran would be jeopardised if Iran, as political leaders in Tehran have recently warned, leaves the NPT. Russia will seek quid pro quos from Iran for its growing cooperation, and the US and European partners in the JCPOA should encourage Russia to make Iran's cooperation with the IAEA, especially in verifying Iran's NPT bona fides, one of the conditions for Russian support.

Also in the near term, the IAEA Secretariat can and should make a strong and clearly argued case to its member states and especially to the Board of Governors to obtain full support for its near-term pursuit of safeguards correctness in Iran's nuclear declaration. Director General Grossi also should project that message to the outside world because most of the public attention paid to the re-emergence of nuclear tension with Iran since 2018 has been about the JCPOA and how to "save" it. Yet it is Iran's NPT obligations that are the baseline for the JCPOA and for future agreements that Iran may reach

with other states about its nuclear programme.

Iran is an ambitious power in a tense region with a legacy of nuclear deception, pursuit of nuclear weapons-related activities, and endowed with sensitive nuclear technology assets. If Iran does not satisfy the IAEA that it has declared all its nuclear materials, it will ultimately be in breach of its NPT safeguards obligations—independent of the status of the JCPOA. It is possible that Iran will cooperate with the Secretariat if the US returns to the JCPOA. But there is an unquantifiable risk that that won't happen. The board must be prepared to refer a recalcitrant Iran to the Security Council concerning its NPT compliance. If Russia reaches constructive understandings with the US and with Iran concerning the IAEA, however, this impasse may not need escalate to a crisis.



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