

## **Briefing Note**

Iran's nuclear activities

# **The EU misleads**

by

**David Morrison**

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[www.david-morrison.org.uk](http://www.david-morrison.org.uk)  
[david.morrison1@ntlworld.com](mailto:david.morrison1@ntlworld.com)

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### Summary

On 12 January 2006, the EU decided to request the Board of the International Atomic Energy Agency (IAEA) to refer Iran to the Security Council because of its nuclear activities. The trigger for this decision was Iran's resumption of uranium enrichment-related activity at Natanz a few days earlier.

In the [statement](#) [1] issued by the EU to justify this decision, you will search in vain for any of the following basic facts about Iran's nuclear activities:

- In almost three years' intensive investigation of Iran's nuclear activities, the International Atomic Energy Agency (IAEA) has found no evidence that they are for anything other than peaceful purposes.
- Enriching uranium for peaceful purposes is Iran's "inalienable right" under the [Nuclear Non-Proliferation Treaty](#) (NPT) [2].
- The EU negotiations with Iran came to an abrupt halt in August 2005 when the EU made [proposals](#) [3] that denied Iran this "inalienable right" – the proposals required Iran to abandon all processing of domestically mined uranium, not merely enrichment, and to import all fuel for nuclear power reactors.
- Iran voluntarily suspended a range of nuclear activities in November 2004 while negotiations were going on with the EU for a mutually acceptable long term agreement. This action was not required by Iran's obligations under the NPT. When such an agreement didn't materialise, it was entirely reasonable of Iran to resume what it had voluntarily suspended – and it has done so gradually since negotiations came to a halt in August 2005. The resumption of some uranium enrichment-related activity at Natanz on 9 January 2006 was a continuation of this. Nevertheless, this action by Iran which is not contrary to its obligations under the NPT has been used by the EU as an excuse for upping the ante against Iran.

The absence of these facts is understandable – since their presence would seriously undermine the EU case for doing anything other than allowing the IAEA to continue with its work.

### **Iran’s “inalienable right”**

All 25 members of the EU are, like Iran, signatories to the [Nuclear Non-Proliferation Treaty](#) (NPT) [2]. All of them, apart from the UK and France, signed like Iran as “non-nuclear-weapon” states and by signing committed themselves not to acquire nuclear weapons.

As a quid pro quo for this self-denying act, the Treaty guarantees “non-nuclear-weapon” states, including Iran, the right to engage in nuclear activities for peaceful purposes. Article IV(1) declares this to be the “inalienable right” of all signatories to the Treaty, saying:

“Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty.”

Engaging in uranium enrichment to fuel nuclear power stations is therefore an “inalienable right” guaranteed to all parties to the Treaty. Yet the EU is attempting to prevent Iran developing uranium enrichment facilities. By so doing, it is acting contrary to Article IV(1) of the Treaty.

Other “non-nuclear-weapon” states that are signatories to the Treaty have uranium enrichment facilities, for example, Japan and Brazil, so denying Iran such facilities is plainly discrimination against Iran, contrary to Article IV(1).

### **Duty to assist**

Article IV(1) establishes the right of states to use nuclear energy for peaceful purposes. Article IV(2) goes further and imposes a duty on other states with appropriate technical know-how to assist:

“Parties to the Treaty in a position to do so shall also co-operate in contributing ... to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty ...”

If EU states were carrying out their duty under the Article IV(2), those in a position to do so would be assisting Iran with its nuclear power programme, rather than trying to block uranium enrichment.

### **Negotiations with the EU**

Iran entered into negotiations with the EU about its nuclear facilities in October 2003. (To be precise, Iran entered into negotiations with UK, France and Germany, who have been acting on behalf of the EU). Iran had no obligation to negotiate with the EU on what is an internal matter, but it did.

The negotiations came to an abrupt halt in August 2005 when the EU [proposed](#) [3] to Iran that it abandon not just uranium enrichment, but all aspects of its so-called “nuclear fuel cycle”. Instead of mining its own uranium ore, and processing and enriching it to make fuel for its nuclear reactors, as Iran planned to do, the EU proposals required Iran to import enriched uranium fuel, and to export spent fuel afterwards.

This would mean that nuclear power generation in Iran would be dependent on fuel from abroad, which could be cut off at any time, even though Iran has a domestic supply of uranium ore. It was no surprise, therefore, that Iran rejected these proposals out of hand.

### **Resumption of enrichment activities**

On 12 January 2006, the EU decided to press for Iran’s referral to the Security Council by the IAEA Board. The trigger for this decision was Iran’s resumption of some uranium enrichment-related

activity at Natanz, activity which Iran suspended in November 2004 following the [Paris Agreement \[4\]](#) with the EU.

It is important to note that this suspension was a voluntary act of goodwill on the part of Iran while negotiations were taking place. As the Paris Agreement itself stated:

“The E3/EU recognize that this suspension is a voluntary confidence building measure and not a legal obligation .... In the context of this suspension, the E3/EU and Iran have agreed to begin negotiations, with a view to reaching a mutually acceptable agreement on long term arrangements.”

To say, as the EU does in its statement of 12 January 2006, that Iran has breached the Paris Agreement by restarting suspended activities is misleading. “A mutually acceptable agreement on long term arrangements” had not been reached, so it is entirely reasonable for Iran to voluntarily resume what it voluntarily suspended.

### **EU in breach of Paris Agreement?**

A case can be made for saying that the EU, and not Iran, is in breach of the Paris Agreement. The latter says:

“The E3/EU recognise Iran’s rights under the NPT exercised in conformity with its obligations under the Treaty, without discrimination.”

One of Iran’s rights under the NPT is, of course, the right to engage in nuclear activities for peaceful purposes. The Paris agreement anticipated that long term arrangements

“will provide objective guarantees that Iran’s nuclear programme is exclusively for peaceful purposes”.

But, the EU proposals of August 2005 do not suggest any such “objective guarantees”. Instead, they demand that Iran abandon key aspects of its nuclear programme, aspects which Iran is entitled to engage in under the NPT, providing they are for peaceful purposes.

### **Iran’s “objective guarantee”**

In September 2004, Iran proposed that its enrichment programme be run in partnership with foreign public or private bodies. President Ahmadinejad made this proposal in a [speech \[5\]](#) to the UN General Assembly on 17 September 2005, saying:

“... as a further confidence building measure and in order to provide the greatest degree of transparency, the Islamic Republic of Iran is prepared to engage in serious partnership with private and public sectors of other countries in the implementation of uranium enrichment program in Iran.”

This proposal is based on the [recommendations \[6\]](#) of an IAEA expert group, which reported in February 2005. The group, headed by Bruno Pellaud, was established by the IAEA to recommend measures that would be useful in giving reassurance that nuclear facilities for peaceful purposes, which a state has a right to possess under the NPT, would not be used for weapons development.

Of the five proposals made by the committee, two were based on the notion of shared ownership or control. This proposal by Iran is a variant of these and seems to be the kind of “objective guarantee” foreshadowed in the Paris Agreement. Nevertheless, to the best of my knowledge, it has been ignored by the EU.

### **No evidence of weapons development**

The IAEA is the agency which is charged with ensuring that nuclear activity by “non-nuclear-weapon” states is for peaceful purposes. This is laid down in Article III of the NPT, which requires each such state to enter into a so-called “safeguards agreement” with the IAEA

“with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices”.

Under a “safeguards agreement” a state must, for instance, report prescribed activities to the IAEA and allow the IAEA access to nuclear sites.

Over the past few years IAEA inspectors have conducted intensive investigations of Iran’s nuclear activities on the ground in Iran. The IAEA Director General, Dr Mohamed ElBaradei, has presented at least 8 formal reports to the IAEA Board on the implementation of the “safeguards agreement” with Iran. These can be found on the IAEA website [here](#) [7]. None of them contains evidence that Iran’s nuclear activity is for other than peaceful purposes.

### **Iran “in non-compliance”?**

The EU statement on 12 January 2006 does not mention this very important and relevant fact. It does mention that the IAEA Board passed a resolution in September 2005

“formally finding that Iran was in non-compliance with its Safeguards Agreement”.

This is misleading, implying as it does that Iran was “in non-compliance” in September 2005 in the opinion of the IAEA Board.

In fact, the [resolution](#) [8] passed by the Board in September 2005 didn't declare Iran to be “in non-compliance” in September 2005. To be precise, the resolution said that

“Iran’s many failures and breaches of its obligations to comply with its NPT Safeguards Agreement, as detailed in GOV/2003/75, constitute non compliance in the context of Article XII.C of the Agency’s Statute”.

[GOV/2003/75](#) [9] is a report by Dr Mohamed ElBaradei to the IAEA Board in November 2003 (that is, nearly two years earlier). In other words, the resolution stated that Iran had been “in non-compliance” in November 2003, but it also stated that

“the Director General in his [report](#) [10] to the Board on 2 September 2005 noted that good progress has been made in Iran’s correction of the breaches and in the Agency’s ability to confirm certain aspects of Iran’s current declarations”.

I assume that the US and EU were unable to persuade the IAEA Board in September 2005 to pass a resolution stating plainly that Iran was “in non-compliance” in September 2005, which they would obviously have preferred. So they had to make do with this formulation, which bizarrely expressed an opinion about circumstances that no longer existed.

### **The NPT: a most unusual treaty**

The Nuclear Non-Proliferation Treaty (NPT) is a most unusual international treaty, which places diametrically opposite obligations on different states. States must sign up to it either as “nuclear-weapon” states, which are allowed to keep their nuclear weapons and are not obliged to accept IAEA monitoring of their nuclear activities, or as “non-nuclear-weapon” states, which are forbidden to acquire nuclear weapons and are obliged to accept IAEA monitoring of their nuclear activities.

Nuclear weapons are the ultimate weapons of self-defence. States that possess them don't get attacked by other states. Iraq would not have been invaded in March 2003 if it had possessed nuclear weapons. The surprise, therefore, is that so many "non-nuclear-weapon" states have signed up to the NPT, given that it meant giving up the right to acquire the ultimate guarantee of a state's existence. A major factor in them doing so was obviously the "inalienable right" of access to nuclear technology for peaceful purposes, supposedly guaranteed in Article IV (see above).

Bizarrely, the "nuclear-weapon" states that are allowed to keep their nuclear weapons are defined in the Treaty itself. Article IX(3) says:

"For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967."

5 states – the US, the UK, the USSR, France and China – qualified as "nuclear-weapon" states. They happen to be the five permanent members of the UN Security Council. Of these, only three – the US, the UK and the USSR – signed the Treaty in 1968. France and China didn't sign until 1992.

It is often said that the "nuclear-weapon" states are breaking the terms of the NPT by failing to disarm and, on the contrary, constantly upgrading their nuclear weapons systems. In fact, the NPT doesn't oblige "nuclear-weapon" states to disarm. True, Article VI says:

"Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control."

But that's a commitment to talk about disarmament, not a commitment to disarm.

### **Israel, India and Pakistan didn't sign**

Some states have chosen not to sign the NPT, for example, Israel, India and Pakistan. As a result, they were free to develop nuclear weapons without breaching the NPT, or any other international treaty obligation. They have the same freedom as the official "nuclear-weapon" states (although restrictions imposed by the Nuclear Suppliers Group limit their ability to import nuclear materials and equipment).

Had Iran followed Israel in not signing the NPT in 1968, or had it withdrawn subsequently, it could also have acquired nuclear weapons without breaking any international obligations. Whether the US and Israel would have allowed it to do so is another matter.

Article IX of the NPT allows a state to withdraw

"if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country".

By any objective standard, Iran and other neighbours of Israel in the Middle East, have good grounds for withdrawal, because of Israel's build up of a nuclear arsenal, perhaps as many as 200 devices, directed at them.

There could hardly be a better example of "extraordinary events, related to the subject matter of this Treaty", which "have jeopardized [their] supreme interests".

### **Double standards abound**

The EU and the US are seeking to prevent Iran having a uranium enrichment programme, even though there is no evidence that it is being used for weapons production. By contrast, the EU and the US have never said boo to Israel for having a nuclear weapons programme and for manufacturing actual nuclear devices. And Pakistan and India are allies of the EU and the US, despite having acquired nuclear weapons outside the NPT. In this matter, double standards abound.

At the same time as it is demanding that Iran abandon uranium enrichment, the US is offering India access to nuclear materials and equipment for the expansion of its nuclear power programme (see joint statement [here](#) [11] by President Bush and Prime Minister Manmohan Singh on 18 July 2005). This offer reverses a 30-year old US policy of denying nuclear materials and equipment to India, which was prompted by India's first nuclear weapons test in 1974. If the deal goes through, India will acquire the status, and the privileges, of a "nuclear-weapon" state like the five official "nuclear-weapon" states. This is going to happen, even though India has never signed the NPT and can't sign it now without giving up its nuclear weapons – which it isn't going to do.

The supreme irony is that part of the payback the US expects for this deal is India's support on the IAEA Board in denying Iran its "inalienable right" under the NPT to uranium enrichment for peaceful purposes.

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