

The Game Plan on Iran is becoming clearer

US wants Security Council resolution allowing for use of force

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The Anglo-Americans want a Security Council resolution allowing for the eventual use of force. Iran must play its cards very carefully from now onwards.

THIS WEEK, the fog of Anglo-American diplomacy on the Iranian nuclear question parted momentarily to give the world a rare glimpse of the drive to war that lies behind. On Wednesday, the *Times* of London reproduced a letter written last week by John Sawers, the British Foreign Office pointman on Iran, to his counterparts in the United States, France, and Germany [outlining the line of action](#) the four allies should follow in the United Nations Security Council.

Stripped of the verbiage and the too-clever strategising on how to choreograph Russian and Chinese consent for sanctions and war, the main point in Mr. Sawers' letter is that the Iranians need to know that "more serious measures" are likely from the Security Council than just a Presidential Statement.

Mr Sawers elaborates on what the E3+US has in mind:

"This means putting the Iran dossier onto a Chapter VII basis. We may also need to remove one of the Iranian arguments that the suspension called for is 'voluntary'. We could do both by making the voluntary suspension a mandatory requirement to the Security Council, in a Resolution we would aim to adopt in, say, early May".

Chapter VII is that part of the UN Charter dealing with threats to international peace and security. Putting the Iranian dossier on to a Chapter VII basis would allow the Anglo-Americans to do two things. First, circumvent Iran's legal right to uranium enrichment, as enshrined in the Nuclear Non-Proliferation Treaty (NPT), its safeguards agreement, its Additional Protocol, and in every single resolution passed by the International Atomic Energy Agency Board of Governors on the Iranian issue. Secondly, generate a minimally plausible but absolutely essential legal fig leaf for military action against Iran in the likely event that the Iranians do not comply with such a Chapter VII resolution.

So far, the Russians and Chinese have made it clear that they are not prepared to appease the "Christmas in Teheran" folks in Washington and London. But in allowing the Iranian file to reach the Security Council, Moscow and Beijing have allowed the U.S. to ratchet up the rhetoric and pressure. This drive to penalise Iran in some way will become a test case for how seriously Russia, China, and the world have learned the lessons of the 2003 invasion of Iraq.

The reason the U.S. is keen to bring in Chapter VII is because it would like to provoke Iran into walking out of the NPT. If Iran were ever to commit this folly, the U.S. regime change plan will move swiftly into high gear. As and when force is used, it would likely be a Yugoslav-style prolonged air war aimed at targeting civilian and industrial infrastructure rather than an Iraq-style invasion.

So fluid is the situation that the Iranians need to carefully consider all their legal and political options and build a strategy aimed at widening the circle of countries opposed to confrontation and in favour of dialogue and diplomacy.

In legal terms, both Article XVII of the [IAEA Statute](#) and Article 22 of Iran's [Safeguards Agreement with the IAEA](#) provide for a dispute resolution mechanism through arbitration or the involvement of the International Court of Justice. Article 22 of the ICJ Statute is clear on this point:

“Any question or dispute concerning the interpretation or **application** of this Statute which is not settled by negotiation shall be referred to the International Court of Justice in conformity with the Statute of the Court, unless the parties concerned agree on another mode of settlement.”[Emphasis added]

The Sawers letter suggests the E3+US are trying to create a situation where **the IAEA Statute would not be applicable to Iran any longer**, particularly the rights that devolve upon an NPT non-nuclear weapons state whose facilities are safeguarded.

Alongside this is the growing number of threats of use of force by the United States and Israel, an issue that [has already been formally raised](#) by the Iranian ambassador to the UN, M. Javad Zarif, in a *note verbale* to the Secretary General on March 21:

“These statements and documents, in view of past illegal behavior of the United States, constitute matters of utmost gravity that require urgent, concerted and resolute response on the part of the United Nations and particularly the Security Council.

“It is indeed regrettable that past failures have emboldened senior US officials and even others to consider the threat or use of force, both of which are specifically rejected under Article 2(4) of the Charter as violations of one of the most fundamental principles of the Organization, as options available on the table.

“The United Nations has a fundamental responsibility to reject those assertions and to arrest this trend.

“It will be highly appreciated if this letter and its annex were circulated as a document of the General Assembly under Agenda Items 9, 82, 87, 94, 95, 97, 110 and of the Security Council.

The General Assembly [Agenda Items](#) referred to by Ambassador Zarif include, inter alia, prohibition of the development and manufacture of new types of weapons of mass destruction and new systems of such weapons, establishment of a nuclear-weapon-free zone in the region of the Middle East, conclusion of effective international arrangements to assure non-nuclear-weapon states against the use or threat of use of nuclear weapons, and general and complete disarmament.

What the E3+US are doing is subverting the NPT system by attacking the core bargain underlying it: that countries which renounce the right to make nuclear weapons shall not be prevented from developing civilian nuclear technology. There are valid legal grounds for considering the IAEA Board of Governors' referral of Iran to the UN Security Council as *ultra vires* the IAEA Statute and the U.N. Charter.

As Michael Spies of the Lawyers' Committee on Nuclear Policy, New York, [has argued](#):

The authority of the Board to refer matters to the Security Council is granted by the IAEA Statute, the Safeguards Agreements, and the Additional Protocol when applicable. Under the Statute (Art. 12(C) and the Safeguards Agreement the Board may only refer Iran to the Security Council if it finds that, based on the report from the Director General, it cannot be assured that Iran has not diverted nuclear material for non-peaceful purpose. In the past findings of "non-assurance" have only come in the face of a history of active and ongoing non-cooperation with IAEA safeguards. The pursuit of nuclear activities in themselves, which are specifically recognized as a sovereign right, and which remain safeguarded, could not legally or logically equate to uncertainty regarding diversion.

None of the reports of the Director General have ever said that inspectors has not been able to verify that there has been "no diversion of nuclear material required to be safeguarded under this Agreement, to nuclear weapons or other nuclear explosive devices," the condition under which the Safeguards Agreement with Iran allows the IAEA to "make the reports provided for in paragraph C of Article XII." What the Director General has consistently said is that there has been no diversion of safeguarded nuclear material but that he is not yet in a position to say there are no undeclared nuclear activities. But since more than 100 countries have yet to ratify the Additional Protocol, this is a "finding" the Director General will have to make for not just Iran alone. Interestingly, China, which voted in February to refer Iran to the Security Council, explicitly stated in its explanation of vote that this referral was not a referral as construed by Article XIIC of the IAEA Statute.

In the light of the foregoing analysis, this much is clear. First, the E3+U.S. want to render inoperative the IAEA Statute and the NPT as far as Iran is concerned. Secondly, the E3+U.S. want to rewrite, through a Chapter VII resolution, the provisions of a Treaty, the NPT, that 188 countries are currently signatories to. Thirdly, the U.S. and Britain have used force in contravention of the U.N. Charter and international law to attack a neighbour of Iran's barely three years ago. Fourthly, Iran has real and justifiable fears that it too will be subjected to an armed attack.

On the basis of these bald facts, Iran should try and get the U.N. General Assembly to seek an Advisory Opinion from the International Court of Justice under Article 96 of the U.N. Charter on the following question: Non-nuclear weapon state parties to the NPT have the right to develop civilian fuel cycle technology. The E3+U.S. insistence on unilaterally imposing new rules on NPT signatories is not in the interest of international peace and security. Right from the outset, Iran has had the law on its side. Even as it displays an open mind on the question of participating in multinational fuel cycle arrangements with Russia, China, and other potential partners, Iran cannot be compelled to give up legal rights, which devolve upon it as an NPT signatory. Nor is it in the interest of other NPT members or non-members that the Security Council arrogate to itself the right to dictate changes to treaty law. In the run-up to its vote against Iran at the IAEA, India said it did not want to see any

other state in its neighbourhood acquire nuclear weapons. It is only fitting that India should also state openly that it does not want to see any other state in its neighbourhood subjected to armed aggression in the name of weapons of mass destruction.

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