

## **American Approach towards the Non-Proliferation Treaty (NPT)**

### **The Case Study: Islamic Republic of Iran Nuclear Activities**

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**Abstract:** Assessing the different provisions of the Non-Proliferation Treaty (NPT) suggests that the treaty is not necessarily a reflection of the will and interests of the great powers including the United States. The NPT is a landmark international treaty whose objectives are to prevent the spread of nuclear weapons and weapons technology, to foster the peaceful uses of nuclear energy, and to further the goal of achieving general and complete disarmament. Articles 2, 4 and 6 are the basic provisions of the treaty assenting the rights as well as obligations of nuclear weapon and non-nuclear weapon states. The authenticity and credibility of the NPT, however, especially in the recent years has steadily been under question. The first and maybe the most important contributing factor to raise such questions is that the present statute of the NPT does not serve the interests of the United States in the post Cold War era and therefore, the United States has been attempting to achieve its interests through international frameworks which are parallel to the NPT as far as a new pro-American treaty is set up. The second contributing factor stems from the rules of the game at international system that are based not on the rights but power sharing among its constituents, and international laws (including the NPT) are implemented

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provided that they are in the lines of the big powers of the international system. Moreover, the NPT sometimes contains a technical and ambiguous as well as complicated nature and as a result of such complexity its implementation is even more difficult. American treatment toward the Islamic Republic of Iran nuclear activities is a reflection of all of the above mentioned factors which explains both the United States ambivalent behaviors and the existing incoherencies in the NPT.

### **Introduction**

Since Bush's presidency, the United States has been pursuing an ambivalent behavior toward the Treaty on the Non-Proliferation of Nuclear Weapons, also referred to as the Nuclear Non-Proliferation Treaty (NPT) which obligates the five acknowledged nuclear-weapon State parties not to transfer nuclear weapons, other nuclear explosive devices, or their technology to any non-nuclear states. The United States, from the one hand, accuses some states such as Iran of violating the provisions of the NPT but from the other hand concludes nuclear agreements with India. It is obviously clear that such an ambivalent behavior designed to meet America's interests will practically weaken the NPT and proves that the efficacy of the NPT has a secondary criterion from the United States point of view. The neoconservative's guideline with regards to the non-proliferation of Weapons of Mass Destruction (WMD) is the application of the all available instruments to achieve American interests. In the given situation, such instruments can sometimes be the international legal laws ruling on WMD as well as NPT and sometimes the implementation of *Proliferation Security Initiative* (PSI) by United States and her allies.

The United States, while refusing to comply with the obligations stipulated in the Article VI of the NPT as well as developing new nuclear weapons, urges other states to comply with the provisions of the NPT. Therefore, it has based its declared policies on the line with the full implementation of this treaty by anti-American states. Surveying the American treatments to the NPT member and non-member states make it clear that in pursuing nuclear

activities, states belonging to the American bloc have less difficulties compared to other states. Such a fact has already been proven in the post Cold War era. What the present article is about to claim is that “the existing Non-Proliferation Treaty does not serve the interests of the America in the post Cold War era. Therefore the United States attempts to meet its interests in the area of non-proliferation through an international framework that is set up in parallel to the NPT insofar as a universal and American-interest serving non-proliferation treaty is established”. The main assumption of this article is that the Non-Proliferation Treaty is not necessarily a reflection of the will and interests of the great powers including the United States, and that the rights of the non-nuclear states are acknowledged as well. The American behavior toward the nuclear activities of such states like Iran is best understandable in said framework. The United States is attempting to apply instruments beyond the Treaty to achieve its non-proliferation policies while urging other states to comply with the provisions of the NPT.

### **The Three Main Pillars of the NPT**

The Treaty was opened for signature on July 1<sup>st</sup>, 1968, and signed by the United States, the United Kingdom, the Soviet Union, and 59 other countries. The Treaty entered into force with the deposit of US ratification on 5 March 1970. The basic provisions of the Treaty are designed to:

- 1- Prevent the spread of nuclear weapons (Articles I and II);
- 2- Provide assurance, through international safeguards, that the peaceful nuclear activities of states which have not already developed nuclear weapons will not be diverted to making such weapons (Article III);
- 3- Promote, to the maximum extent consistent with the other purposes of the Treaty, the peaceful uses of nuclear energy, to include the potential benefits of any peaceful application of nuclear explosion technology being made available to non-nuclear parties under appropriate international observation (Articles IV and V). (Figure 1).

It is worth mentioning that the Treaty pursues two other objectives in addition to the non-proliferation of the nuclear weapons. Although it's believed by nuclear states that the main objective of the Treaty is preventing the spread of nuclear weapons. Referring to the terms of the Treaty suggests that the developing countries tried to make a balance between their obligations under the Treaty (non-nuclear-weapon States Parties undertake not to acquire or produce nuclear weapons or nuclear explosive devices) and their rights (control of the great powers nuclear arms and peaceful uses of the nuclear energy), and taking advantage of the benefits of the nuclear energy in exchange for setting nuclear weapons aside was the logic of the approval of the NPT by non-nuclear weapon State Parties<sup>1</sup>. Otherwise, there is no other logical reason to accept such an agreement which would impose restrictions and obligations on the non-nuclear weapons parties. Western and nuclear weapon states, while acknowledging the said fact, have tried to convince the non-nuclear weapon developing countries to join the NPT and its obligations, since it has always asserted both the rights and commitments of these countries. In principle the NPT is the result of the great powers efforts to restrict the spread of the nuclear weapons to non-nuclear weapon states along with some incentives (Moghadam 2003); that is the rights of the peaceful uses of nuclear energy and the transfer of them to the developing countries.

However, for several reasons including the logic of the power distribution at international system, the great powers' approach towards the NPT has become the predominant approach. Therefore, the determination of the parties that the Treaty should lead to further progress in comprehensive arms control and nuclear disarmament measures stipulated in Article VI of the NPT is relatively set aside. In other words, the obligations of each party to the Treaty are negotiations in good faith as an effective measure relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament. In general, a complete disarmament under strict and effective international control under the Article VI of the NPT has already received little attention. Furthermore, the pillar of the transfer of the nuclear technology by the advanced states to non-nuclear

technology states with regard to the disarmament and non-proliferation regimes received very less attention as well. Under such circumstances, the various approaches of the different states towards NPT have to be analyzed on the basis of these three pillars. While Article II of the NPT clearly concentrates on the non-proliferation by non-nuclear weapon states, Article IV asserts the inalienable rights of all Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes and Article VI covers 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. Under Article X, in addition, each party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. The American approach toward these four Articles of the NPT is going to be analyzed below.

### **The United States and Articles II and III of the NPT**

Under Article II of the NPT each non-nuclear member of the Treaty undertakes not to receive the transfer from any transfer of nuclear weapons or other nuclear explosive devices or the control of such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices. It means that if a member of the Treaty has directly or indirectly manufactured or received nuclear weapons or other nuclear explosive devices or has in any way assisted, encouraged, or induced any non-nuclear weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, it has violated the provisions of the NPT. The first Article pertains to the responsibilities of the State Parties on non-proliferation of nuclear weapons and explosive devices and the second Article pertains to the commitments of the State Parties not to receive such weapons. And under Article III

each non-nuclear state undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfillment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. But it should be noted that under Article III, the safeguards required shall be implemented in a manner designed to comply with article IV of this Treaty, and to avoid hampering the inalienable rights of the Parties to use nuclear energy for peaceful purposes in accordance with the provisions of this article and the principle of safeguarding set forth in the Preamble of the Treaty.

To the Western and nuclear-weapon states, Article II of the Treaty is the spirit of the NPT and thus they stress that exercising the incentives or rights stipulated in this Treaty is provided if the non-nuclear-weapon states observe this Article. In other words, if the violation of the Article II obligations by any member is certain, such State Party's rights under NPT will be halted and its rights to use peaceful nuclear energy will be unexercised. With this regard, the European Union in its statement issued in 2004 declared that due to the violation of the obligations of the Article II, the Islamic Republic of Iran is unable to exercise its rights under Article IV of the NPT (Nuclear Diplomacy, 2006:40). There are some points in the Article II of the NPT that have to be taken into account:

- 1- The scientific and technical achievements of the developed countries when NPT entered into force have never been in the degree that they could transfer nuclear technology to the non-nuclear parties. Therefore, the attention of the Treaty was drawn to vertical proliferation or transfer of the nuclear technology from the nuclear-weapon state parties to the non-nuclear-weapon states. (Braun & Chyba, 2004) As a result, the mechanisms designed in the lines with the implementation of the Article II, such as creation of the Nuclear Suppliers Group (NSG) or Zangger Committee formed under this assumption that

through the control of the exportation of nuclear materials from nuclear-weapon State Parties to non-nuclear-weapon ones, the vertical nuclear proliferation will be annulled. By the appearance of the Khan network measures and nuclear and missile exportations from North Korea to certain members of the NPT, it was known that there was a second circle, in addition to the said vertical proliferation, of nuclear proliferation. Under the Article II of the Treaty, the horizontal proliferation is not prohibited and nuclear-weapon State Parties are not obliged to refrain from nuclear transactions with each other, although the Article IV of the Treaty invites them to pursue negotiations in good faith on effective measures relating to the 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. It is partly because the NPT is known as a Treaty in which the rights of its members are not equal and some states enjoy more rights but fewer obligations.

2- The inspection and verification systems designed in the Treaty have long been the most challenging issues and have been doubled due to technological advancements. The NPT verification system is based on the inspections of the facilities and sites that have already been notified by the member and the agency (excluding the emergency situations determined by the IAEA board of governors) is not eligible to inspect unannounced facilities and sites. Furthermore, the nature of the nuclear activities makes its technical diversion more easily; that is the same facilities and materials are used in both nuclear weapons programs and peaceful nuclear activities. The technical verification therefore is always a complicated task especially with negative presumptions while a state is committed to prove there is no diversion towards military purposes in its nuclear activities. That's why the positive verification is recommended even by the United Nations Security Council; It means that it is believed there is no diversion unless proved otherwise. (Asculai, 2002:7) The main paradox of such a fact is that the more technical advancement, the more progress technical methods for escaping from this rule will be. As a result

the verification of the hidden uranium enrichment activities, *inter alia*, is much more difficult rather than the hidden reprocessing activities.

The focal point of the American policy, especially under the Bush administration, is formed on the basis of the Articles II and III of the NPT. President George W. Bush outlined a seven-point agenda to strengthen the world's efforts to stop the spread of weapons of mass destruction (WMD). President Bush's proposals are as follows: 1. the task of the Proliferation Security Initiative be expanded to address more than shipments and transfers to interdict lethal materials in transit. With this regard the United States hoped that it will be backed by a shift in priorities and funding, primarily within the intelligence community and the budget for intelligence activities. (Braun & Chyba, 2004:47) 2- To call on all nations to strengthen the laws and international controls that governs proliferation. At the U.N., a new Security Council resolution should be passed quickly requiring all states to criminalize proliferation, enact strict export controls, and secure all sensitive materials within their borders. 3- To expand the efforts to keep weapons from the Cold War and other dangerous materials out of the wrong hands and to pass a resolution about what to do with the old Soviet Union. Under this program, helping former Soviet states find productive employment for former weapons scientists and dismantling, destroying and securing weapons and materials left over from the Soviet WMD arsenal are priorities. 4- The world must create a safe, orderly system to field civilian nuclear plants without adding to the danger of weapons proliferation. The world's leading nuclear exporters should ensure that states have reliable access at reasonable cost to fuel for civilian reactors, so long as those states renounce enrichment and reprocessing. Enrichment and reprocessing are not necessary for nations seeking to harness nuclear energy for peaceful purposes. 5- Only states that have signed the Additional Protocol be allowed to import equipment for their civilian nuclear programs. Nations that are serious about fighting proliferation will approve and implement the Additional Protocol. 6- Creation of a special committee of the IAEA board that will focus intensively on safeguards and verification. This committee, made up of governments in good standing with the IAEA, will strengthen the

capability of the IAEA to ensure that nations comply with their international obligations. 7- No state under investigation for proliferation violations should be allowed to serve on the IAEA Board of Governors - or on the new special committee. And any state currently on the board that comes under investigation should be suspended from the board. As it is clear the first two proposals were about to prevent any transfer of nuclear instruments, the third were going to prevent any nuclear robbery and the fourth and fifth proposals planned to prevent hidden proliferation. (Braun & Chyba, 2004:48)

This proposal had been adopted in accordance with the challenges stemmed from the Articles II and III of the NPT but there was no balance between its punishments and incentives since the 'stick' was a lot bigger and harsher than 'carrots' offered. The fourth, fifth, sixth and seventh proposals were in obvious contradiction with the Article IV and somehow Article III is based on the American interpretation of the Treaty. Under the fifth proposal only states that have signed the Additional Protocol be allowed to import equipment for their civilian nuclear programs is a explicit violation of the Article IV, Para 2 of the Treaty that asserts all parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy.

Regarding the American accusations against Iran, it should be said that the history of Iran's nuclear program has aimed at developing the full nuclear fuel cycle in Iran. Iran's main NPT and safeguards violations relate to undeclared activity dating from the mid-1980s into 2003. In late 2002 or early 2003, under intense international pressure, Iran's leadership made the decision to issue extensive declarations to the IAEA and the public about its nuclear program. Iran maintained its nuclear activities were legal and based on Article 95, Para (a) of the Safeguard Agreement reached between Iran and IAEA; because according to this article, Iran was not obliged to declare the importation of natural material. Furthermore, up to February 2003, Iran never approved the amendment of the said article, so-called the 301 Code, that obliged countries to declare the injection

of effective materials at the time of the importation of that material, not three months prior, to the IAEA. Therefore, Iran had no commitment to declare its activities to the IAEA.

According to the Article 34, Para (c) and Article 95, Para (a) Safeguards Agreement, the importation of over one kilogram nuclear of nuclear fuel material should be declared to the IAEA while Iran claimed such imported material failed to meet such effective purity. Referring to Article XX of the IAEA Statute which defines the term "special fissionable material" backs the Iran's claim because this Article clearly stipulates that the term "special fissionable material" does not include source material. (Asgari, 2006:49)

What is worth mentioning is that due to technical nature of such issues, the only organ eligible to determine the violations of the provisions of the NPT by Iran is the Safeguards Agreement concluded between Iran and IAEA. On the other hand, inspections and verifications of the nuclear facilities and activities is a complex and time consuming process and the IAEA is supposed to devote enough time to do it properly. (Asculai, 2002:8)

But the United States has always been seeking to accelerate the inspections and declaration of diversion of Iran nuclear activities by the IAEA. Such pressures eventually started the Iran dossier to the United Nations Security Council in early 2006. What is clear is that the confirmation of the even negative verification within the said short time is very difficult while the confirmation of the peaceful nature of the Japanese nuclear activities and issuing the Bill of Health by the IAEA took around 20 years. In accordance with the most recent IAEA annual reports concerning the implementation of the safeguards, among 61 states in which both NPT and the Additional Protocol are applied, the IAEA could certainly conclude there are only 21 states without any undeclared nuclear programs. The IAEA also said that due to the lack of Iran's undeclared nuclear activities records, the verification process will take even more time. (Hosseini, 2006:436) In line with the confirmation of the stated claim and the American attempts beyond the IAEA framework and even the Security Council in dealing with Iran's nuclear dossier, the unilateral sanctions against Iran imposed by the United States should be taken into account. The

United States has also acted against 19 entities and individuals supporting Iran's WMD and missile programs, including another Iranian bank, Bank Sepah, using Executive Order 13382. The Executive Order, signed by President Bush in June 2005, authorizes the Treasury and State Departments to target key nodes of WMD and missile proliferation networks, including their suppliers and financiers<sup>2</sup>. While U.N. Security Council Resolution 1737 passed in March of 2007 contains an annex listing entities and individuals including Bank Sepah responsible for Iran's nuclear and missile programs, such a move shows that the United States is acting far beyond the international community and even the Security Council.

Stuart Levey, the Undersecretary for Terrorism and Financial Intelligence of U.S. Treasury Department, clearly pointed out the above mentioned facts and underlined that the Department of State's diplomatic efforts have yielded critical successes, including a unanimously adopted UN Security Council resolution, Resolution 1737, imposing Chapter VII sanctions targeting Iran's nuclear and missile programs in his testimony before the Senate Committee on Banking, Housing and Urban Affairs in March 21, 2007, three days prior the adaptation of the Resolution 1747 by the United Nations Security Council<sup>3</sup>.

American measures out of the NPT legal framework suggest that unlike President Bush's claims announced in March 7, 2005, there is not any strong implications of the United States commitments to the NPT and its provisions, and as Bush said the principle target of the United States (in support of the NPT) is to protect it from the threat of the lawbreaking states. The instrumental view on the NPT by the United States is the implicit meaning of such words and the American behavior towards Iran presents a clear example. The pressures imposed by the United States on China to halt its nuclear cooperation with Iran in 1990s, on Russia to postpone the running of the Bushehr Power Plant, sanctioning European companies in charge of transacting with Iran all suggest that the focal point of the American policy in dealing with Iran's nuclear program is to prevent it to achieve any nuclear materials with dual applications and applying economical and financial sanctions to compel Iran to suspend or halt

its nuclear activities. Furthermore, the United States is about to use the verification system to prove its claims regarding the violation of the Articles II and III of the NPT by Iran.

The United States claims that it is using various types of targeted measures to counter Iran's pursuit of nuclear weapons and development of ballistic missiles. Therefore Articles 4, 5 and 6 of the President Bush's proposal is obviously targeting Iran and its ultimate objective is to legitimize its measures to prevent Iran to achieve peaceful nuclear technology through bodies like Security Council and IAEA which in turn is inconsistent with the spirit of the NPT.

#### **The United States and the Article IV of the NPT**

While the non-proliferation of the nuclear weapons is regarded as the first pillar of the NPT, Article IV of the NPT is considered as the second pillar of this Treaty stating that 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. Under this Article all the Parties to the Treaty shall undertake the responsibility to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so, shall also cooperate in contributing alone or together with other States or international organizations 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, with due consideration for the needs of the developing areas of the world.

The central bargain of the NPT is that if non-nuclear weapon states renounce the pursuit of nuclear weapons, they may gain assistance in developing civilian nuclear power. This bargain is clearly set forth in Article IV of the Treaty, which states that the Treaty's "right" to develop peaceful nuclear energy is clearly conditioned upon parties complying with Treaty Articles I & II and there is not any indication of the prohibition of uranium enrichment activities for

peaceful purposes. The only problem of the Article IV is that enrichment and fuel cycle technology has a dual nature and members can use the NPT as a cover to hide any nuclear weapons ambitions. Such a measure is called nuclear concealment; that is, a Party may develop technology enabling it to produce nuclear bombs under the cover of peaceful purposes. (Levite, 2002/2003)

Japan is among the countries able to produce nuclear bombs during one or two months, although there are numerous regional and international pressures that make the Nuclearization of Japan more far reaching. (Hughes, 2007)

It is undeniable that Japan, due to its special relationship with the United States, could achieve fuel cycle technology without any need of concealment while South Africa reached such technology using concealment in the 1970s and 1980s. In addition to Japan, countries like Canada, Germany, Brazil, Netherlands and Australia have already achieved the fuel cycle technology but not nuclear weapons. All in all, to the developing countries of the Treaty achieving the fuel cycle does not necessarily mean the development of the nuclear bombs. Its irony is that despite the initial negotiations on the NPT, developed but not developing countries are benefiting from Article IV while during negotiations, Article IV was to be adopted in favor of the developing countries in order to create a balance between their rights and commitments under the Articles II and III. At the course of the negotiations India with regard to the Article IV announced that nuclear apartheid in the civilian sector (peaceful) is unacceptable. (Scheinman, 2004:1)

The most important part of the NPT is Article IV stating how to ensure and encourage the complying of the States Parties with the provisions of the Treaty and the applications of nuclear energy for peaceful purposes. In other words, to find the resolutions by which the international community and especially the IAEA be able to ensure that the states apply equipments and facilities with dual applications just for peaceful purposes. Due to the nature of the enrichment technology, the answers of said questions are not that easy. In the ultimate analysis, trust in the nuclear behaviors of a state is a political matter rather than technical since it's possible to accuse

any state of diverting in terms of technology. The IAEA Secretary General's solution to such a problem is the creation of an international fuel bank (ElBaradei, 2006) that in turn has its own special challenges and difficulties<sup>4</sup>. In President Bush's proposals to deal with the NPT challenges, there are no indications of the inalienable rights of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes and the fourth proposal stating that states without enrichment and reprocessing facilities are not allowed to receive any enrichment technology is a clear violation of the Article IV of the NPT, that is the states have already developed enrichment technology have the right to achieve new facilities and technologies but others are deprived from it. The implicit meaning of it is the reclassification of the States Parties to the Treaty into non-nuclear developed states and non-nuclear developing states. The former has the inalienable right to benefit from Article IV but the latter, according to the Gorge W. Bush's proposals, is illegal. This is completely overruling all negotiations and discussions that led to the adaptation of the NPT in the 1960s and the fundamental logic of striking a balance between the rights and obligations stipulated in the NPT.

The American attempts to prevent the appropriate expansion of goals, strategy and instruments are based on four principles. First, it has always tried to keep its nuclear hegemony and through maintaining the international security decline the importance of the nuclear weapons for other states. Second, despite the fact that the United States declared objectives are to dismantle and prevent the spread of the nuclear weapons; it has often compromised with the reduction of the fissionable material or the prohibition of the nuclear test by adopting a more moderate nuclear restrictive objectives. Third, the size and area of the American efforts are regional as well as global and its ultimate aim has always been setting up a non-proliferation regime and influencing on the regional as well as domestic stimulant nuclear ambitions and international nuclear materials trades. Fourth, in line with its attempts to prevent the spread of the nuclear weapons, it applies several various ways and instruments at the unilateral, bilateral and multilateral levels as well as more adopting moderate

measures, compelling ways and general instruments. (Levite, 2002/2003:59-62)

The United States principle and declared objectives regarding the Islamic Republic of Iran at least prior to the Incentive Package offered by 5+1 group in June 2006 had been based on the dismantling of Iran's nuclear facilities and sites and suspension of all nuclear activities even the peaceful ones. The United States acknowledged Iran's right to have the light water reactor for the first time in the Incentives Package, although the North Korean experience suggests such a measure from the America was more propaganda rather than a practical measure. European nations like the American authorities admitted the Iran's right to operate peaceful nuclear energy but they have never talked about the exercising of such rights. It could be compared with the totalitarian regimes which always speaking of the freedom of their civilians but in practice they never allow their residents to exercise it. Furthermore, the official stance of the United States regarding Iranian enrichment activities up to now is the necessity of the suspension of such activities. The U.S., therefore, tries its best to take advantage from all of the available instruments to stop Iran nuclear activities in general and uranium enrichments in particular. The U.S. treatment to states such as Argentina, Brazil, India, Pakistan as well as Israel suggests that it has been ready to admit the nuclear progress of said countries (excluding Israel) after a long time and reaching to a reasonable agreement. It is necessary mentioning that dealing with each particular states, the United States (in addition to common policies) pursues a special policy stemmed from the regional and international conditions. It is therefore very difficult to outline a common rule out of the United States treatment to the nuclear activities of the other states in accordance with the Article IV of the NPT. Similarly, pointing out a mark at which the United State is likely to withdraw from its stance dealing with other states nuclear programs and admit the sensitive nuclear activities such as enrichment or reprocessing is not that easy as well. Although the dominated assumption, especially among some of the Iranian authorities, is that resistance is likely to compel the United States to set back its positions.

Regarding the existing loopholes in the implementation of the Articles II and III of the NPT and applying limitations and monitoring nuclear material exportations and more important the American failure to control nuclear proliferation among the developing countries, Bush administration after the Cold War came to this conclusion that the focus of the any attempts conducted by the United States have to be on the dismantling of all kinds of nuclear activities including peaceful ones. Although such measures are inconsistent with Article IV of the NPT, in Iran's case, the challenge of the enrichment technology on the basis of the Article IV of the NPT is highlighted and the United States tries to resolve it unilaterally. (Scheinman, 2004:5)

While the American instruments to tackle Iran in terms of the NPT is referring to the Articles II and III, Iran refers to the Article IV of the Treaty to deal with the United States; but indeed it should be taken into account that the legal law regarding to the weapons of mass destruction is not fully developed and is largely influenced by the international power equilibriums. (G.Bonab, 2006) As a result, the NPT frameworks and requirements are not the only instruments the United States refers to but it applies various measures to put pressure on Iran to halt and suspend its nuclear activities in general and enrichment activities in particular. The ambivalent behavior of the United States to the Article IV of the NPT is paving the ground to weaken it more than before and this was the concern existed when adopting this Treaty. As long as some states are derived from exercising their rights stipulated in the Article IV, there would be no intentions to comply with the entire Treaty; that is why Iran links its nuclear activities case to the all developing as well as developed countries desiring to pursue peaceful nuclear technology. The hidden expansion of the nuclear activities will weaken the NPT as much as the refusal of the rights of members exercising and developing nuclear energy would do.

### **The United States and the Article VI of the NPT**

Article VI of the NPT is known as the third pillar of the non-

proliferation that states members of the Treaty must undertake negotiations in good faith on effective measures relating to the 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. Looking at a glance at the terms of this Article, it would be clear how blatantly this is ignored. There has never been even an initial measure taken with the aim of making the three main subjects mentioned in this Article, namely cessation of the nuclear arms race, nuclear disarmament and a Treaty on general and complete disarmament. In contrary, the efforts of the great powers with the United States at the top of them has long been concentrated on the development of new nuclear weapons effective and applicable in the post Cold War era, the measures obviously in gross inconsistency with the spirit of the NPT from the one hand, and Article IV of the NPT from the other. By using the excuse of dealing with the threat of the dangerous states, the United States is about to develop the fourth generation of its nuclear bombs. (Bashary, 2006:22-21)

What should be taken into account here is that nuclear powers, especially the United States, believe disarmament is going to be faded and they still insist on deterrence as the most effective policy to ensure their security in the international system. (Arbatov & Dvorkin, 2006:16) The American attempts to develop new nuclear weapons coincided with Britain's triplet nuclear transformations, (See Stocker, 2007: 22) developments in the Russian nuclear doctrine and decrease in the threshold of nuclear operation, (Arbatov & Dvorkin, 2006:22) Chirac's disputable statements in 2006 on the possible use of nuclear weapons by France if necessary and China's attempts for military modernization of the strategic nuclear forces all are the implications of the violation of the Article VI of the NPT by the major powers including the United States. Furthermore, it seems the violation of the Article IV of the NPT by the United States is much more than other states. Developing new generation of nuclear weapons, setting up new defense missile system in the United States and Europe, withdrawal from Treaties including Anti-Ballistic Missile (AMB) Treaty in 2002 limiting the strategic weapons concluded with Russia,

achieving nuclear and military prominence against Russia, all are in clear contradiction with the cessations of the nuclear arms race and disarmament. Such measures have even threatened the post Cold War arms controls as well. Some American commentators believe that the time of the Mutually Assured Destruction (MAD) strategy that the possibility of a military conflict between the United States in the 1960s is over. To them, the United States is on the verge of achieving nuclear predominance vis-à-vis its potential rivals among the big powers. For the first time in the past few decades the United States is now capable to disarm the Russian and China's nuclear arsenal and destroy them through applying First Strike. (Lieber & Press, 2006:7) From 1945 the American nuclear arsenal has been gradually developed and such a development has never been stopped even following the end of the Cold War and the collapse of the Soviet Union. From 1945 until now, the United States spent around 6 trillions dollars on maintaining and developing its arsenals (Cirincione et al. 2005:210). Following the Bush presidency and the American withdrawal from the ABM in the 2002 and the suspension of the START II as well as START III, the American nuclear doctrine in particular and its nuclear activities in general have largely experienced lots of changes and the pre-emptive doctrine initiated by the President Bush has also contributed to enhance the militarism and arms race in the international arena which is inconsistent with the Article VI of the NPT.

Not only has there been no step taken by the United States towards a comprehensive disarmaments treaty but has moved towards developing and expanding new nuclear weapons, reaching new nuclear agreement with India, supporting Israel's nuclear activities, developing the Proliferation Security Initiative (PSI) in dealing with countries out of the IAEA framework has contributed the gradual decline of the NPT. It's worth mentioning that as far as there is no balance between Article IV and the Articles I and II of the NPT, no hopeful perspective is expected to become a reality. The nuclear states cannot compel non-nuclear states to stop their nuclear activities (including peaceful ones) while they are developing their own nuclear activities. The major threats to the efficacy of the NPT are such ambivalent behaviors towards the rights and obligations stipulated in

the NPT. It's a long time the NPT found as an asymmetric equilibrium by the nuclear states in which some especial and applicable obligations are imposed on the non-nuclear states while the nuclear states are just obliged to comply with some ambiguous and general provisions affirming the intentions of the parties to negotiate in good faith to achieve a cessation of the nuclear arms race, nuclear disarmament, and general and complete disarmament. Putting it in another way, most non-nuclear states held that their renunciation of nuclear weapons should be accompanied by a commitment on the part of the nuclear powers to reduce their nuclear arsenals and to make progress on measures toward comprehensive disarmament.

The nuclear states, especially the United States, have been unable to abide by their NPT commitments, not only due to the lack of any progress in some particular areas but also because of their failure to include the disarmament in their planning and national policies concerning their own nuclear weapons. (Deller et al. 2004:108) The United States, while insisting on the compliancy of members with the NPT obligations, paid no attention to the decisions made in the favor of the necessity of a practical disarmament. In the NPT Review and Expansion Conference held in 2000 the group comprising of Brazil, Ireland, Mexico, South Africa and Switzerland played a notable role in pressuring the implementation of the disarmament obligations. They had already announced a new agenda for a world free of nuclear weapons as a requirement in 1998. Although the NPT Review and Expansion Conference held in 2000 five nuclear-weapon State Parties to the NPT in a common statement expressed their strong reaffirmation of support for the Treaty by the parties thereto - with particular reference to the Article IV of the NPT - (Deller et al. 2004: 90-91) but after the September 11 attacks, the United States, unlike its commitments, has developed and expanded new nuclear weapons on the name of the various excuse including the existence of asymmetric threats arose from the extreme groups.

### **The United States and Article X of the NPT**

The NPT is a type of Treaty that allows withdrawal within its provisions. Article X of the NPT states that each party shall in exercising its national sovereignty has the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other members of the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests. It should be noted that in the course of the NPT negotiations Brazil believed that these two requirements namely *submitting a notice of withdrawal* and *a statement of the extraordinary events such state regards as having jeopardized its supreme interests* are very restrictive. Responding to that protest, the Soviet Union representative said that such bodies such as the Security Council is required to ensure the monitoring and effectiveness of the NPT; based on the United Nations Charter the Security Council is granted special powers and if withdrawal from the NPT by a states threatens the international security, this organ would be able to limit it. (Bunn & Rheinlander, 2005) As such, there are two views with regard to the withdrawal from the NPT. The first view is based on the fact that according to the international law the withdrawal of a state from the NPT is the right of that states if its supreme interests are jeopardized due to the NPT membership. The second view is somehow like the analysis given by the Soviet Union representatives and believes that because the NPT is directly linked to the international security, therefore the withdrawal from it must not be automatically allowed and submitting just a notice to the other State Parties and the Security Council by a state does not justify its withdrawal. As a result, the Security Council approval is the fundamental factor allowing a state to withdraw from the NPT. (G.Bonab, 2006)

The second view is supported by the United States and some other European states and in the NPT Review and Expansion Conference held in 2005 and attempted to make the withdrawal of a

state from the NPT more difficult. The main concern of such states is that a State Party to the Treaty like North Korea in the light of its rights stipulated in the NPT continued its nuclear activities and could achieve some nuclear weapons and then without any legal restrictions would withdraw from the NPT. The American representative in the preparatory committee of the NPT Review Conference held in 2005 supported the second view and while refusing the North Korean withdrawal from the NPT stated that if the withdrawal from the NPT paves the way to achieve nuclear weapons and now that nuclear weapon is applied as an instrument for bargaining, then the contemporary world turns to be very unstable and insecure<sup>5</sup>. The American representative to the United Nations in the third NPT Review Conference held in 23 May, 2005 asserted that withdrawal from the NPT does not imply condoning the violations of a State Party when it was a NPT member and the said State Party would be responsible for its violations even after withdraw from the NPT while disagreeing the automatic withdrawal from the NPT by its members. As the coincidence of the achievement of the nuclear weapons with the withdrawal from the NPT is expected, therefore the United Nations Security Council has to take consequences of a state withdrawal into serious account and to find a way other than its withdrawal<sup>6</sup>. The ultimate goal of countries like the United States, Canada and New Zealand is to limit the exercising of the withdraw right by the State Parties through strengthening the withdrawal restrictions, even if the state desiring for the withdrawal from the NPT has been under the pressures by the United States and its allies for its peaceful nuclear activities. Iran has repeatedly been threatened to military attack by the United States and Israel and Israeli capabilities to destroy Iranian nuclear facilities, like the attack to Osirak Reactor in Iraq, are assessing by some academic analysts (See Raas, 2007) that would be a threat to the Iran vital interests and Iran declared that it has never considered withdrawing from the NPT. It should be taken into account that if such treaties as the NPT, instead of granting more inalienable rights to its members, impose just obligations through its more powerful members on its weaker members, will certainly lose its own. If countries such as Iraq or North Korea violated Article II of the

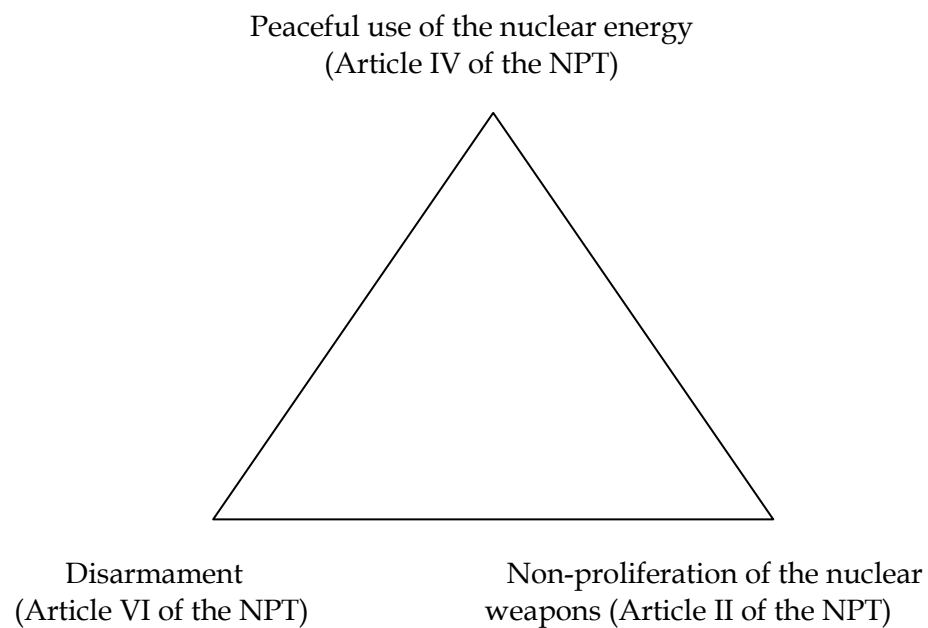
Treaty by nuclear activities, there are some other states as the United States that largely weakened the Articles IV, VI as well as X of the NPT and therefore instrumental use of the NPT is the main objective of the United States.

### **Conclusion**

Assessing the American behaviors as well as its nuclear policy particularly after the September 11 attacks suggests that the United States weakened the principles and provisions of the NPT more than any other member. The American non-proliferation policy has long been subject to the power hierarchy existing at the international level rather than legal regulations. Withdrawing from the Anti-ballistic Missiles Treaty, developing new nuclear weapons, concluding nuclear agreements with India, compromising with Pakistan and Israel are all indicating that the American approach towards the nuclear activities is subject to American relations to other states. Furthermore, policies adopted by the United States to set up frameworks beyond the NPT to counter the nuclear expansion fully suggest that this country and its leaders lost their confidence to the NPT efficacy to counter the proliferation and are looking for unilateral policies like President Bush's policies to deal with the nuclear activities of the other states. However, the critics to the neoconservatives and Bush's policies should be taken into account too. Nowadays, there are serious critics and doubts about Bush's non-proliferation policies. Still there are many ambiguities regarding the rights and obligations stipulated in the NPT to the non-nuclear weapon and nuclear weapon State Parties. Moreover, the existing realities of the international system have been able to convince the world leaders that the great powers are monopolizing the nuclear energy advantages and therefore should counter such treatment. The Islamic Republic of Iran's peaceful nuclear activities and the American behavior towards it should be analyzed in the framework mentioned above. Iran is trying its best to exercise its inalienable rights but due to the pressures imposed by the great powers including the United States such rights are going to be under question by the weaker states in the power hierarchy of the

international system as well. Under such circumstances Iran policies in reaffirming the peaceful settlements on the framework of the NPT is a rational policy because this Treaty remains the cornerstone of international efforts to counter the further spread of nuclear weapons and the advancement of such policy requires more active diplomacy and understating the realities of the international system as well as the admission of them.

**Figure 1: the three pillars of the NPT**



## References

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- Arbatov, Alexei and Dvorkin, Vladimir. (2006) *Beyond Nuclear Deterrence: Transforming the U.S-Russian Equation*, Washington: Carnegie Endowment for International Peace.
- Asculai, Ephraim. (2002) *Verification Revisited: The Nuclear Case the Institute for Science and International Security*.
- Asgari, Yadollah. (Summer 2006) "Legal analysis of International Atomic Energy Agency performance in Iran nuclear activates" *Defense Policy seasonal journal*, 14<sup>th</sup> year, No 55.
- Bashry, Esmaeel. (May 2006) "Nuclear Mini Bomb, escape from Non-Proliferation Treaty's obligations", *Disarmament Bulletin*, No 2.
- Braun, Chaim and Chyba, Christopher. (2005) "Proliferations Rings: New Challenges to the Nuclear Non-Proliferation Treaty", translated by Rahman G.Bonab, *Disarmament Bulletin*, CSR No 1.
- Bunn, George and Rheinlander, John. (April/May 2005) "The Right to Withdraw from the NPT: Article X is not Unconditional," *Disarmament Diplomacy*, No. 79.
- Cirincione, Joseph. (2005) *Deadly Arsenals, Nuclear Biological and Chemical threats*, Second Edition, Washington D.C.: Carnegie Edowment for International Peace.
- Deller, Nicole et al. (2004) *The Rule of Power or The Rule of Law: analyzing the American policies and measures on security treaties*, translated by Kazem Gharib Abadi et al, Tehran: Tehran Abrar Moaser Studies Institute.
- Elbaradei, Mohammed. (June 14, 2006) "Rethinking Nuclear Safeguards," *Washington Post*.
- G.Bonab, Rahman. (Winter 2006) "The International Laws of the Weapons of Mass Destruction and Non-Proliferation Treaty withdraw Consequences", policy paper Center for Strategic Research, Tehran.
- Hosseini, Amir Hossein. (Summer & Autumn 2006) "United Nations Security Council and Iran nuclear program" *Foreign Affairs seasonal journal*, 20<sup>th</sup> year, No 2,3.
- Hughes, Liewelyn. (Spring 2007) "Why Japan Will not go Nuclear (yet): International and Domestic Constraints on the Nuclearization of Japan," *International Security*.
- Levite, Ariel E. (Winter 2002/2003) "Never Say Never Again: Nuclear Reversal Revisited," *International Security*, Vol. 27, No. 3.

- Lieber, Keir A. and Press, Daryl G. (Spring 2006) "The End of MAD? The Nuclear emension of U.S. Primacy," *International Security*, Vol. 30. No. 4.
- Moghadam, Jafar. (2003) *The History and Objectives of the Nuclear Safeguards*, Tehran: Deputy for Country's Nuclear Safety System.
- Nuclear Diplomacy: 678 long-day Crisis Management*, (2006) Tehran: Center for Strategic Research, Deputy for International Relations Researches.
- Raas, Whitney and Long, Austin. (Spring 2007) "Osirak Redux Assessing Israeli Capabilities to Destroy Iranian Nuclear Facilities?" *International Security*, Vol. 31, No. 4.
- Scheinman, Lawrence. (June7, 2004) "Article IV of the NPT: Background, Problems, some Prospects," Stockholm: Weapons of Mass Destruction Commission.
- Stocker, Jeremy. (2007) *The United Kingdom and Nuclear Deterrence*, Adelphi, Paper, New York: IISS.

## Notes

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<sup>1</sup> Mohammad Shaker from Egypt at "Iran Nuclear Energy Program; policies and perspectives" international conferences held by Center for Strategic Research at Tehran on May 2006 asserted it at his presentation. He was one of the Egyptian NPT initial negotiators. For more information see:

Mohammed Shaker, *The Nuclear Non-Proliferation Treaty*, New York: Ocean Publication, 1980.

<sup>2</sup> Testimony of Stuart Levey Before the Senate Committee on banking, Housing and Urban affairs, March 21, 2007, available at <http://banking.senate.gov>

<sup>3</sup> See President's Statement on Non-Proliferation of Nuclear Weapons Treaty, March 7, 2005, accessible at [www.whitehouse.gov](http://www.whitehouse.gov)

<sup>4</sup>See for Details, John B. Wolfsthal, "Assessing Proposals on the International Fuel Cycle," Stockholm: Weapons of Mass Destruction Commission, June 2004.

<sup>5</sup> The NPT Prepcom 2003: Acronym Special Coverage available at [www.acronym.org.uk/npt/03us.htm](http://www.acronym.org.uk/npt/03us.htm)

<sup>6</sup> Statement by Sally Horn, Senior Advisor, Bureau of Verification and Compliance, Department of State on Article X in the Third Committee of the 2005 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons, May 23, 2005, available at [www.un-int/usa/05print-104.htm](http://www.un-int/usa/05print-104.htm)