

Information Circular

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Communication dated 7 April 2010 received from the Permanent Mission of the Islamic Republic of Iran to the Agency

The Secretariat has received a Note Verbale dated 7 April 2010 from the Permanent Mission of the Islamic Republic of Iran transmitting the text of the statement of the Resident Representative of the Islamic Republic of Iran delivered during the meeting of the Board of Governors, 1-5 March 2010 under agenda item 5(c) on the “Implementation of the NPT safeguards agreement and relevant provisions of Security Council resolutions 1737 (2006), 1747 (2007), 1803 (2008) and 1835 (2008) in the Islamic Republic of Iran (*GOV/2010/10*)”.

As requested by the Permanent Mission, the statement is circulated herewith for the information of all Member States.

Statement

by

H.E. Ambassador Soltanieh

**Permanent Representative of the Islamic Republic of Iran to the United Nations
and other International Organizations in Vienna**

before the Board of Governors

on

**Implementation of the NPT Safeguards Agreement
in the Islamic Republic of Iran, Agenda item 5 (c)**

IAEA, Vienna, 1-5 March 2010

In the Name of God, the Most Gracious and the Most Merciful

Mr. Chairman,

At the outset I feel obliged to express condolences and sympathy to the peoples and governments of Haiti and Chile, on the occasion of the recent tragic events of devastating earthquake.

Mr. Chairman, Dear old Friend,

I would like to welcome you back to Vienna and congratulate you on the assumption of chairmanship of the Board of Governors. I have full confidence that you will be leading in

the most competent and impartial manner. I feel obliged to express appreciation to your predecessor, H.E. Ambassador ARSHAD of Malaysia, our common friend, for his honest performance and his dedication to the principles. I assure you the full cooperation of my delegation.

Mr. Chairman,

I would like to put on record the sincere appreciation of my country for the indispensable support of the majority of Member States of the Agency, the Non-Aligned Movement, as reflected in the statement delivered by the distinguished ambassador of Egypt in his capacity as Chairman of the Vienna Chapter of the Non-Aligned Movement.

I-General remarks and concerns

Mr. Chairman,

Once again the application of safeguards in my country is on the agenda of the Board of Governors after over 6 years! Why?

A thorough and careful diagnosis of the past developments shows that the root cause is the hidden agenda of a few western countries, specifically the United States, to derail the Agency from its statutory mandate as an international technical organization established for promotion of peaceful uses of nuclear energy, to a merely verification organization. They also have tried to jeopardize its independence through instrumental use of the United Nations Security Council. In a nutshell, to change the Agency's prestigious identity to a UN Watchdog! To monitor and control Vienna from New York!

Iran's peaceful nuclear program is merely a pretext for the implementation of this ill intention and dangerous course of action. Today in Iran, tomorrow in another developing country! They have already started confrontation against Syria, under false pretexts, following the Israeli military aggression. The Secretariat has been and is under tremendous pressure and continuous interference by those few countries. My Government hopes that the new Director General will resist such pressures to keep the impartiality of the Agency as he has already reiterated during the election campaign and taking oath ceremony.

These are warning worrisome signals which require mobilization for an immediate common action by the majority of Member States, especially by developing countries, against the attitude and conducts of a few western countries, which damages the credibility, integrity and the independence of the Agency.

II-Specific Remarks on the Report of Director General

Mr. Chairman, Distinguished Delegates,

A comprehensive evaluation is submitted to the Secretariat to be published as INFCIRC document for public awareness. However, I seek your indulgence to bear with me while I am shortly reviewing the first report of the new Director General.

A simple question: Do we see a change of gear compared to previous reports?

Yes.

Why?

The report (GOV/2010/10) is lengthy, as the Director General himself confirmed in his opening statement, including historical background. The Safeguards Department claimed that it intended to refresh the memory of old friends and to facilitate the task of the new Director General as well as new ambassadors! The report has reopened already closed issues, mixed the legally binding and the voluntary measures, mixing the obligations under the NPT Comprehensive Safeguards with voluntary measure recommended by the Additional Protocol and even beyond. The last but not the least, the report has highlighted the allegations of those few western countries I referred to in my general remark, opening a dangerous trend of involving the Agency in activities beyond the framework of the Statute, namely conventional military activities, interfering the national security of the Member States. The report is not balanced and factual since it has not duly reflected the cooperation, letters and explanations of the Islamic Republic of Iran to the questions of or communication made with the Agency. Some information provided in several parts of the report contradict para 26 of the General Conference Resolution GC(52)/RES13, which says: "Request the Director General and the Secretariat to continue to provide objective technically and factually based reports to the Board of Governors and the General conference on the implementation of safeguards with appropriate reference to relevant provisions of safeguards agreements."

The following examples prove the above assertion:

- 1- The only new development since the last report, by the former Director General, is the successful enrichment activity up to 20% in order to produce the required fuel for the Tehran Research Reactor, after Iran was disappointed due to lack of a responsible reply by some potential suppliers and due to the Agency's inability to fulfil Iran's legitimate request. But by repeating the obsolete issues such as alleged studies, the so called American laptop, the report has misled the public, as if a new event with military dimension has occurred!

- 2- Pursuant to the official communication by Iran dated 7 February 2010 in which it officially notified the Agency about its decision to start enrichment activities up to 20%, Iran did not start the activity until the Agency officially had acknowledged the receipt of its notification and informed Iran on the same day that the inspectors have already been instructed to be present at FEP in Natanz on 9 February 2010. The Director of the Division of Operations B, Department of Safeguards, in his letter dated 8 February 2010 informed: *“I refer to your letter dated 8 February 2010 (Ref.M/137/315/5009) and I would like to inform you that our inspectors have been instructed to be at FEP on the 9 February 2010 to detach seal at the 30B cylinder containing LEU, maintain continuity of knowledge during re-batching to a 5B cylinder and seal both the 30B and 5B cylinder after the verification.”*

I have to remind that the centrifuges used for this purpose were already under full scope safeguards including 24 hours surveillance of the Agency’s cameras and the routine inspections. Iran however decided to inform the Agency before taking any action and also to invite the inspectors to be present at the time of commencement of the 20% activity.

- 3- The fact that all declared nuclear materials are accounted for and remained under the Agency’s full scope surveillance for peaceful purposes is not reflected and is a missed element in this report, whereas it was duly reflected in previous reports.
- 4- Mixing the notions of “all nuclear material”, “declared nuclear material” and the issue of “assurances about the absence of undeclared nuclear material”, in the context of Comprehensive Safeguards Agreement (CSA) and Additional Protocol, respectively, in a non-professional manner, has undermined the full cooperation of Iran in accordance with its CSA obligation and has also misled the public.
- 5- The facts that the material of the alleged studies lack authenticity, that no nuclear material was used and no components were made as declared by the former Director General, are also missing in this report.
- 6- The report lacks any reference to the fact that the United States did not permit the Agency to deliver to Iran the material related to the alleged studies, thus the Agency’s verification activities were jeopardized and its credibility was damaged, since the Agency was obliged to deliver the material to Iran in accordance with the Work Plan (INFCIRC/711) agreed upon by the Islamic Republic of Iran and the Agency on 21 August 2007. I recall the criticism of the former Director General in this respect.
- 7- It should be recalled that there were only six past outstanding issues mentioned in the agreed Work Plan and all are resolved. The part IV.1 of the Work Plan reads as follows: *“These modalities cover all remaining issues and the Agency confirmed that there are no other remaining issues and ambiguities regarding Iran’s past nuclear program and activities.”* Therefore, raising new issues such as “possible military dimension” is in full contravention with the Work Plan.

- 8- According to the Work Plan, the Alleged Studies have been fully dealt with by Iran, thus, this item in the Work Plan is concluded. Any request for another round of substantive discussion, provision of information and access is absolutely in contravention with the spirit and the letter of such agreement negotiated, which both parties have agreed upon and are committed to. It should be recalled that the agreed Work Plan is the outcome of fruitful and intensive negotiations by three top officials in charge of Safeguards, Legal and Policy Making Organs of the Agency with Iran and eventually acknowledged by the Board of Governors. Therefore, it is highly expected that the Agency respects its agreement with Member States, otherwise the mutual trust and confidence which is essential for the sustainable cooperation shall be put in jeopardy.
- 9- The requests by Safeguards department regarding additional information on heavy water production plant such as origin of the drums and production, taking DA samples, weight and amount of heavy water, is in full contravention with the obligations envisaged in CSA (INFCIRC/214) and is even beyond Additional Protocol. Requesting such information under the pretext of the UNSC resolutions is technically and legally unjustified and shall establish illegal precedence. Please note that heavy water plants are not covered by the Comprehensive Safeguards Agreement (CSA). I have to remind that the Islamic Republic of Iran has officially announced that it shall not suspend its peaceful activities including heavy water production, and completion of Heavy Water Reactor aiming at producing radioisotopes for medical purposes, which is its inalienable right according to the Statute and NPT, thus the request by the Safeguards Department to visit the Heavy Water Plant, under the pretext of illegal UNSC resolution, to check whether Iran has suspended or not activities is ridiculous! I have to put on record the fact that Iran has granted inspectors access to Heavy Water Reactor several times voluntarily, though Iran is not implementing modified code 3.1. However, whenever in the Agency's requests there was a reference to the UNSC resolutions, as a pretext to force Iran to grant access, the response was negative since it establishes a dangerous precedence for the future of the Agency. The clear political message based on legal principles is that the UNSC has no right to dictate the IAEA, as an independent technical international organization, what to do and how to do its statutory functions.
- 10- Iran was implementing voluntarily the modified code 3.1 of the Subsidiary Arrangement since 2003, but it suspended its implementation pursuant to the illegal UNSC resolutions against Iran's peaceful nuclear activities. However, Iran is implementing the original code 3.1 but not the modified one. I have to remind all that the modified code was merely a recommendation by the Board of Governors in the 90s, to the effect that instead of informing the Agency about a new nuclear facility 180 days prior to introducing nuclear material, as obliged according to the CSA, the Member States will inform as soon as they start construction. Since the 90s till 2003 many countries including Iran had not then yet implemented. It was surely not considered as a non-compliance with NPT obligation, since it is not an integral part of the Safeguards Agreement and has definitely not the same legal status. In addition, one has to bear in

mind the fact that according to the international law, even if a country joins a treaty such as NPT, it has the sovereign right to withdraw from it. It has to be noted that the modified code 3.1 has neither been negotiated nor jointly signed by Member States and the Secretariat, nor it required ratification by the legislative bodies of Member States, thus the assertion by the Safeguards Department that Iran could not unilaterally decide to suspend implementing the modified code 3.1, is absolutely unjustified.

- 11- Though Iran is committed to declare a facility to the Agency 180 days prior to introducing nuclear materials to it, however Iran has voluntarily informed the Agency about Fordow site 18 months prior to introduction of materials to the plant. In addition, Iran provided its DIQ, granted unlimited access to the facility, held meetings and provided detailed information, permitted taking swipe samples and reference photos which even under the provision of code 3.1 of 1976, Iran is not obliged to do so. As reported by the DG, the Agency has inspected five times in such a short time which confirmed the consistency of their findings with the declaration by Iran.
- 12- The issue of confidentiality is a matter of serious concern. It is an essential element in application of the Safeguards Agreements between the IAEA and Member States. The Agency has to take any appropriate measures to ensure that all information in direct relation to national security of Member States shall not compromise. Article 5 of the Safeguards Agreement between Iran and Agency (INFCIRC/214) stipulates that: "The Agency shall take every precaution to protect commercial and industrial secrets and other confidential information coming to its knowledge in the implementation of this agreement."
- 13- I have to refer to the para 54 of the former DG report GOV/2008/4 regarding the Possible Military Dimension that said: "However, it should be noted that the Agency has not detected the use of nuclear material in connection with the alleged studies, nor does it have credible information in this regard". Therefore, first sentence of para 40 of GOV/2010/10 obviously contradicts the above assessment of the Agency. Section E of this report is in full contravention with para 24 of the former DG report GOV/2008/15 which said: "It should be noted that the Agency currently has no information - apart from the uranium metal document - on the actual design or manufacture by Iran of nuclear material components of a nuclear weapon or of certain other key components, such as initiators, or on related nuclear physics studies." I recall that according to the Work Plan the issue of uranium metal was resolved and a certificate is received from the Agency to the effect that it is no more an issue.

According to the Work Plan the Agency was required to submit all documentation to Iran and then Iran was only expected to "inform the Agency of its assessment". No visit, meeting, personal interview, swipe sampling were foreseen for addressing this matter. Notwithstanding the above and based on good faith and in a spirit of cooperation, Iran went beyond the above understanding by agreeing to hold discussions with the IAEA, provide necessary supporting documents and inform the Agency of its assessment in a 117-page document proving that the allegations have been all fabricated and forged.

The Government of the United States has not handed over original documents to the Agency since it does not in fact have any authenticated document as the former DG declared. I have to recall that the first paragraph of chapter IV of the Work Plan says: "These modalities cover all remaining issues and the Agency confirmed that there are no other remaining issues and ambiguities regarding Iran's past nuclear program and activities", therefore, introducing a new issue under the title of "possible military dimension" contradicts the Work Plan.

Mr. Chairman,

Finally, the paragraph 5 of Chapter IV of the Work Plan reads: "The Agency and Iran agreed that after the implementation of the above Work Plan and the agreed modalities for resolving the outstanding issues, the implementation of safeguards in Iran will be conducted in a routine manner."

Mr. Chairman,

I recall the fact that after the most intrusive verification in the history of the Agency, with over 3000 man-day inspections in Iran, there is no evidence of diversion of nuclear material and activities to prohibited purposes. The continuation of such politically motivated debate and non-compliance of the Secretariat with the negotiated agreed text of Work Plan (INFCIRC/711), shall seriously jeopardize the mutual trust between Iran and the Secretariat, creates a situation that other country shall hesitate to follow suit, therefore this trend has to stop before is too late.

Mr. Chairman, Distinguished Delegates,

Permit me to say couple of words on the request for nuclear fuel supply for Tehran Research Reactor (TRR):

TRR was constructed by the General Atom Company of the United States, and made operational in 1967.

The reactor is MTR type and its initial fuels were 93% enriched. The following fuels during its lifetime were supposed to be supplied by the United States in accordance with the relevant contract. A fresh fuel was expected to be delivered in accordance with the contract made with US in late 70s. Since the contractual obligation was not fulfilled and the fuel was not delivered, therefore we had to look for another supplier. Eventually, with the assistance of the Agency, a contract between the Islamic Republic of Iran and Argentina for LEU fuel was concluded in 1987 as reflected in document GOV/2363 dated 7 Sept. 1988. The reactor

core was then converted from HEU to LEU in 1994 using then newly received LEU (less than 20%) fuels.

Due to the fact that the TRR fuel lifetime is approaching its end, upon instruction of my Government, in the letter No. 047/2009, dated 02.06.2009, I requested the Agency's assistance in this respect.

A non-paper proposal was handed over by the former Director General, on behalf of the Russian Federation and the United States, to the President of the Atomic Energy Organization of Iran and me on 12 September 2009, two days before the 53rd Session of the General Conference. Later on, France joined the other two suppliers. According to their proposal which mistakenly is referred to as "Agency's proposal", supply of the fuel was subject to a modality of delivery of 1200 Kg of LEU (3.5%), produced in Iran, to Russia for further enrichment, then fuel fabrication in France.

During negotiations held in Vienna from 19 to 21 October 2009, with presence of representatives of the mentioned suppliers and the former Director General, I referred to the Article 3 of the Statute which says: "*to make provision for materials, services, equipment, and facilities*", and informed that my Government expects to receive fuel by cash payment which is the normal practice and as Iran did according its contract with Argentina through the IAEA. I reiterated that due to confidence deficit we require guarantee and assurance of supply. Finally we declared that if the Agency would not be able to fulfil its mandate, as expected, Iran would be ready to implement a modality of exchange of the TRR required fuel assemblies (19.95%) with the LEU material (3.5%), produced at Natanz (IRN-), simultaneously on the territory of the Islamic Republic of Iran. As since 7 February 2010 we had not received any response to our proposal, we had no choice but to produce our own fuel indigenously, considering the requirement of over 850 000 cancer patients, in need of radioisotopes produced by the Tehran Research Reactor. The status quo proves that the Islamic Republic of Iran had made a justified historical decision to embark on uranium enrichment technology.

Mr. Chairman, Distinguished Delegates,

In my first official meeting with H.E. Mr. Amano, as our new Director General, on 5 January 2010, and later on in my letter of 18 February 2010 addressed to him, I informed him that our logical compromising proposal is still on the table. I also asked the Director General to transmit the request to other potential suppliers as well. I have been informed that the Agency has done so.

Now is the time for the international community to test the political and good will of potential suppliers in cooperating on such a humanitarian project within the framework of the Agency.

Thank you for your attention.