

Information Circular

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Communication from the Permanent Mission of the Islamic Republic of Iran to the Agency

1. On 22 November 2023, the Secretariat received a Note Verbale, together with an attachment, from the Permanent Mission of the Islamic Republic of Iran to the Agency.
2. As requested, the Note Verbale and its attachment are herewith circulated for the information of all Member States.



PERMANENT MISSION
OF THE ISLAMIC REPUBLIC OF IRAN
TO THE UNITED NATIONS AND
OTHER INTERNATIONAL ORGANIZATIONS

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جمهوری اسلامی ایران
نماینده دائمی نزد دفتر ملل متحد و سازمانهای بین المللی
وین

In the Name of God, the Most Compassionate, the Most Merciful

No. 1838004

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other International Organizations in Vienna presents its compliments to the Secretariat of the International Atomic Energy Agency (IAEA) and has the honor to hereby enclose an Explanatory Note regarding the Reports of the IAEA Director General on " Verification and monitoring in the Islamic Republic of Iran in light of United Nations Security Council resolution 22231(2015), and NPT Safeguards Agreement with the Islamic Republic of Iran" (GOV/2023/57, GOV/2023/58 dated 15 November 2023).

The Permanent Mission of the Islamic Republic of Iran would like to request the latter to circulate the enclosed Explanatory Note among the Member States and publish it as an INFCIRC document.

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other International Organizations in Vienna avails itself of this opportunity to renew to the Secretariat of the International Atomic Energy Agency the assurances of its highest consideration.

Vienna, 22 November 2023



To: The Secretariat of the International Atomic Energy Agency (IAEA)



Permanent Mission of the Islamic Republic of Iran
to the United Nations Office and other International Organizations in Vienna

Explanatory Note

on the Reports of the Director General to the IAEA Board of Governors
entitled “*NPT Safeguards Agreement with the Islamic Republic of Iran*”

(GOV/2023/58 - 15 November 2023)

and “*Verification and Monitoring in the Islamic republic of Iran in light of United Nations Security Council resolution 2231 (2015)*”

(GOV/2023/57 - 15 November 2023)

The Permanent Mission of the Islamic Republic of Iran to the United Nations Office and other International Organizations in Vienna would like to share its comments and observations on the Director General Report to the IAEA Board of Governors GOV/2023/58 and GOV/2023/57 as follows:

A. General Comments

1. The Islamic Republic of Iran has complied fully with its obligations including Comprehensive Safeguards Agreement (INFCIRC/214) and has done its utmost to enable the Agency to effectively carry out its verification activities in Iran, including C/S measures on Iran’s nuclear material and activities, which is unique in the Agency's verification system.
2. The separation of issues divided under two different reports has not been duly respected. Some JCPOA related matters have been repeated in the NPT Safeguards report and vice versa, some NPT Safeguards related matters can be seen in the JCPOA report. As an example, verification and monitoring activities related to manufacture of centrifuges, rotor tubes and bellows, which are defined in the scope of

JCPOA, should not be reported under the NPT Safeguards Agreement Agenda Item.

3. Article 2 of the CSA stipulates "*The Agency shall have the right and the obligation to ensure that safeguards will be applied, in accordance with the terms of this Agreement, on all source or special fissionable material in all peaceful nuclear activities within the territory of Iran, under its jurisdiction or carried out under its control anywhere, for the exclusive purpose of verifying that such material is not diverted to nuclear weapons or other nuclear explosive devices*". Therefore, any expansion of verification measures on non-nuclear material and activities goes beyond the CSA and is not legally justified.
4. Following the United States' unlawful withdrawal from the JCPOA and failure of the E3/EU to fulfill their commitments, in exercising of its rights under paragraphs 26 and 36 of the JCPOA, Iran had ceased all voluntary transparency measures beyond its Comprehensive Safeguards Agreement, including implementation of modified Code 3.1 (as specified in paragraph 65 of Annex I to the JCPOA).
5. The recent E3's letter to the President of the Security Council on 14 November 2023, by turning a blind eye on the root cause of the current situation surrounding the JCPOA, intentionally spreads false information concerning Iran's commitments under the JCPOA and its peaceful nuclear program.
6. Iran's decision to cease performing its commitments under the JCPOA was fully in accordance with its inherent rights under paragraphs 26 and 36 of the JCPOA and in response to the U.S. unlawful withdrawal from the JCPOA, coupled with the E3's inability to uphold their commitments. This blatant fact, by no means, can constitute a basis for E3 to refrain from implementing their commitments.
7. The E3's decision to refrain from implementing their sanctions-lifting commitments specified in Paragraph 20 of Annex V of the JCPOA on Transition Day (18 October 2023) was an unlawful act and another explicit instance of significant non-performance of their commitments in violation of both the JCPOA and the United Nations Security Council Resolution 2231.
8. On the issue related to the so-called two locations, it should be underlined that the

origin of the issue goes back to the allegations primarily posed by an ill-intended third party, namely the Israeli regime, which does not have a single commitment to any WMD instruments, including in particular the NPT, and repeatedly threatens to attack Iran's nuclear facilities and installations devoted to peaceful purposes, contrary to the numerous GC resolutions, including in particular 407, 1983; 444, 1985; 475, 1987 and 939, 1990, none of which has been respected by this regime. The regime has been so rude that most recently has threatened Iran to nuclear attack. Netanyahu during his statement which was broadcasting live across the world said that "*Iran must face a credible nuclear threat*" and his heritage minister said "*dropping a nuclear bomb would be one of the options to attack Hamas*".

9. It should be noted that in light of further cooperation with the Agency, in recent years, Iran implemented voluntary measures in the framework several Joint Statements including the 4th March 2023.

B. Comments on the NPT Safeguards report, Background:

10. On paragraph 2 of the report which states: "*The comprehensive evaluation of all safeguards-relevant information available to the Agency is essential in ascertaining that there are no indications of the diversion of declared nuclear material from peaceful nuclear activities, no indications of undeclared production or processing of nuclear material at declared facilities and locations outside facilities (LOFs), and no indications of undeclared nuclear material and activities in a State with a comprehensive safeguards agreement*", the following observations need to be highlighted:
 - The Agency's reference in footnote 4 of GOV/2023/58, is applicable to those States having CSA and AP in force as reflected in annual SIRs: "*to ascertain that there are no indications of undeclared nuclear material or activities in a State, the Agency needs to carry out an evaluation of the consistency of the State's declared nuclear programme with the results of the Agency's verification activities under the relevant*

*safeguards agreements and **additional protocols**...*".

- It is a matter of grave concern that this would be applicable by the Agency to Iran. Divergent position inconsistent with this provision has been taken by the Agency on a few occasions. Such approach is neither lawful nor justified on a professional ground, taking into account the letter and spirit of this provision.
11. The Director General on different occasions in the report has expressed his sentiment by using words such as "*serious/deep/profound concern*", which is not objective, professional and technical explanation, but rather is a political approach which should have been avoided. The DG's reference to "*insufficient substantive cooperation*" totally overlooks Iran's cooperation with the Agency rendered in different fields including under the Joint Statements.
 12. Paragraph 6 of the report (GOV/2023/58), states: "*...the safeguards issues related to these three undeclared locations remain outstanding due to insufficient substantive cooperation by Iran, despite numerous interactions with the Agency*", needs to be noted that:
 - Time and again the Islamic Republic of Iran has reiterated that there has never been any location to be declared under the CSA, including through INFCIRC/1131 dated 14 September 2023, INFCIRC/996 dated 7 June 2022 and INFCIRC/967 dated 3 December 2021. Furthermore, the Agency's claim of undeclared location has not been supported by authentic safeguards-relevant information, documents and evidences.
 13. In footnote 12, The Agency's claim that "*the analysis of all safeguards-relevant information available to the Agency related to 'Marivan' is consistent with Iran having conducted explosive experiments with protective shielding in preparation for the use of neutron detectors (GOV/2022/26, paragraph. 20)*". This is a misleading expression, far away from safeguards conclusion.

- Regarding non-safeguards matter "the explosive experiments", a gradual evolution of the Agency's language in the so-called Marivan can be seen by changing the phrase "... may have planned..." to "... planned..." and most recently to "...having conducted..." (GOV/2022/26, Para. 13, GOV/2023/9, Para. 4 as well as GOV/2023/58, footnote 12). This kind of deduction made by the Director General is not only irrelevant to the CSA but also contradicts the letter and spirit of the 4th March 2023 Joint Statement.

Iran's comments and explanations on the paragraph 8 of the report "...the Agency's assessment of the activities that were undertaken by Iran at 'Marivan' remains unchanged" has already been reflected in INFCIRC/1094, paragraph. 8.

C. Comment on the Report (GOV/2023/58), Outstanding Safeguards Issues

14. Regarding Paragraph 9 on Varamin, The followings need to be considered:

- As it was frequently explained by the Islamic Republic of Iran, there has never been any undeclared location which is required to be declared under the CSA.
- The allegation of existing "*undeclared pilot-scale plant used between 1999 and 2003*" was not supported by any authentic document.
- The Agency's reference to the sole poor quality satellite imagery for assessing that "*... containers removed from Varamin were eventually transferred to Turquzabad ...*" is not correct, provable, and verifiable. There are thousands of similar containers moving around the country. Therefore, could not support the claim of removal and transfer from one location to another.

15. Regarding paragraph 9 on "*Turquzabad*", the following needs to be considered:

- The Agency's assessment is not based on authentic information and evidences. Turquzabad is actually an industrial place encompassing various kinds of warehouses and depots for storing detergents, chemicals, foodstuff, fabrics & textiles, vehicles tire and parts, tubes & joints, and some industrial scraps. The

location in such area is not compatible for storage of nuclear material.

- As it has been frequently said, the location in question is an industrial scraps storage which movement of containers is an essential necessity. Removing of containers from an industrial area is the mere evidence for the Agency's claim that cannot be considered as a solid ground for any allegation. Therefore, the accusation of movement of nuclear material and equipment has no ground. In our intensive investigations into the background of activities carried out at this location, the Islamic Republic of Iran did not find the origin of the particles reported by the Agency. There has not been any nuclear activity or storage in this location. Therefore, no technical clue concerning the origin of reported particles were found. However, the possibility of presence of such particles by sabotage cannot be excluded.
- On the Agency's incorrect assumption of removal of containers intact from the location, the information that proves the Agency's assumption is not correct has already been provided to the Agency.

16. The report further states in paragraph 10, "*...the nuclear material particles identified at Varamin and Turqezabad...*". It should be emphasized that:

- The phrase "*nuclear material particles*" being used instead of "*uranium particles*", reflected in the previous report (GOV/2023/26), leads to misinterpretation.
- Mere presence of few uranium particles at the claimed locations, which might be found in any location of a State, should not be regarded as a safeguards issue.

17. It is stated in paragraph 12 of the report that "*The Agency identified a discrepancy that needed to be resolved in the amount of nuclear material*". It should be mentioned that:

- The background of the discrepancy has been described in the Explanatory Note (INFCIRC/1131 dated 14 September 2023). On this issue, two technical meetings between the Agency and Iran were held in Vienna in September and

November 2023, awaiting further additional Agency's verification activities in the near future.

- While this issue is only related to the CSA, for unknown reasons it has been irrelevantly reflected in the footnote 22 of the JCPOA Report (GOV/2023/57).

D. Comment on the Report, Joint Statement

18. Regarding paragraph. 24, it should be highlighted that:

- The first bullet of The Joint Statement stipulates that the Iran's cooperation with the Agency is in the framework of the CSA. Any further cooperation should mutually be agreed based on the modality mentioned in the Joint Statement. In this regard, Iran agreed to install camera by the Agency at workshop in Esfahan without having access to collected data. It is evident that any further measure needs to agree on a modality.

19. On Paragraphs 29-33 regarding de-designation of Agency inspectors, the following facts need to be taken into consideration:

- As outlined in Article 9(a)(ii) of the (CSA) between Iran and the Agency (INFCIRC/214), it is unequivocally established that Iran retains the sovereign prerogative to object to the designation of Agency inspectors, not only at the time of the proposed designation but also any other time after designation has been made.
- Excretion of this right, by no mean impacts, directly or indirectly, the ability of the IAEA to conduct its inspections in Iran. The DG's assertion of "potential risks of impeding the conduct of the inspection as described in Article 9(a)(iii) of the CSA" lacks substantiation and has no merit. No need to mention the list of designated inspectors for Iran currently comprises 119 individuals, which is a quite high number.

- It should be noted that in a letter to the Director General dated 30 October 2023, Iran announced its approval of the designation of 8 new inspectors proposed by the Agency.

E. Comments on the report (GOV/2023/58), Summary

20. While our cooperation with the Agency is in right track, expressing sentiments of regret in the report for something which is still ongoing is unproductive.

21. Regarding the implementation of modified Code 3.1 of the Subsidiary Arrangements, needless to mention that the implementation of modified Code 3.1 was part of transparency and confidence building measures, reflected in paragraph 65 of Annex I to the JCPOA. This measure was suspended under paras 26 and 36 of the JCPOA, following the U.S. withdrawal from the deal.

22. Despite the Agency did not present authentic documents to Iran concerning its claim on "*undeclared nuclear material and nuclear-related activities*", and Iran was and is not obliged to consider unauthentic and fabricated documents as Safeguards-related information and to respond the Agency's requests; however, Iran voluntarily granted access and provided information and clarification to the Agency on these locations.

Unfortunately, the Agency considers all fabricated documents and fake information provided by the Israeli regime as authentic, and this led the Agency to conclude wrong and unreliable assessment accordingly. This attitude should be avoided by the Agency.

23. Reference of the Director General to the Joint Statement (paragraph. 40) on the commitment is incomplete and incorrect due to the fact that Iran has not accepted any specific commitment without being mutually agreed. The Joint Statement has not been frozen by Iran. It is frozen due to the continued unwillingness of the Agency to

engage discussing the modality need to be agreed upon.

24. On paragraph 41 “The Director General continues to strongly condemn Iran’s sudden withdrawal of the designations of several experienced Agency inspectors...”. It should be mentioned that the Director General is expected to report factually and not sentimentally. Therefore, the expression of "strongly condemn" is not professional and needs to be avoided in his future reports. Furthermore, the Islamic Republic of Iran expresses its concern over the politicization of this matter, as reflected in politically motivated and counterproductive statements and reports that singularly criticize and condemn Iran for exercising its legitimate rights. Such an approach obviously contradicts the guiding principle articulated in the introduction of the Joint Statement of 4 March 2023, wherein the Agency pledged to engage with Iran fully respecting its rights under the CSA. Any attempt to deny or violate Iran's sovereign rights is categorically rejected. Exercising of Iran’s undeniable right shall be fully recognized and respected.

25. The Joint Statement *per se* is voluntary and shall not be go beyond the established principle of international law that any voluntary measure is defined and implemented by the concerned party as it deems necessary. Furthermore, those voluntary measures were pending on modalities to be agreed upon.

F. Conclusion

26. The Islamic Republic of Iran has so far rendered its full cooperation under the CSA to the Agency. It has to be re-emphasized that all Iran's nuclear material and activities have been completely declared and verified by the Agency.

27. The Islamic Republic of Iran rightfully expects that the Agency conducts its reporting on verification activities in Iran based on the principles of impartiality, professionalism, and objectivity.

28. It has to be re-emphasized that all Iran's nuclear material and activities have been completely declared to the Agency and has gone through a very robust verification

system. Although, the Islamic Republic of Iran has no obligation to respond to the Agency's questions based on fabricated and unauthentic documents. However, on a voluntary basis and cooperative manner, Iran provided all necessary information, supporting documents and granted accesses requested by the Agency.

29. The assurances of the peaceful nature of Iran's nuclear program should not be linked to ~~the~~ increasing knowledge of Iran's non-nuclear activities by the Agency.

30. The Islamic Republic of Iran, once again, stresses the importance and value of cooperation extended to the Agency. This constructive cooperation should not be undermined by short- sighted political interests. Accordingly, the Agency has the responsibility to show wisdom in addressing such issues in a diligent manner in order to avoid distorting the bigger picture on cooperation between Iran and the Agency. In principle, invalid, fake, and fabricated information shall not be used as the basis for verification.