

Information Circular

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Communication dated 20 November 2014 received from the Permanent Mission of the Islamic Republic of Iran to the Agency regarding the Report of the Director General on the Implementation of Safeguards in Iran

1. The Secretariat has received a communication dated 20 November 2014 from the Permanent Mission of the Islamic Republic of Iran to the Agency, enclosing an explanatory note by the Permanent Mission on the report of the Director General on “Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran” contained in document GOV/2014/58 (7 November 2014).
2. The communication and, as requested by the Permanent Mission, the explanatory note are circulated herewith for information.

In the name of God



*Permanent Mission of
ISLAMIC REPUBLIC OF IRAN
to the International Atomic Energy Agency (IAEA)*

No. 190/2014

The Permanent Mission of the Islamic Republic of Iran to the International Atomic Energy Agency presents its compliments to the Agency's Secretariat and has the honour to request the latter to circulate attached Explanatory Note by the Permanent Mission of the Islamic Republic of Iran to the IAEA on the report of the Director General on the Implementation of Safeguards in the Islamic Republic of Iran (GOV/2014/58 dated 7 November 2014) among the Member States and publish it as an INFCIRC document and make it available to the public through the IAEA website.

The Permanent Mission of Islamic Republic of Iran to the International Atomic Energy Agency avails itself of this opportunity to renew to the Agency's Secretariat the assurances of its highest consideration.

Vienna, 20 November 2014



Secretariat of the Policy-Making Organs
Attn. Ms. Aruni Wijewardane
Secretary, Policy-Making Organs

**Explanatory Note by the
Permanent Mission of the Islamic Republic of Iran
to the IAEA on the report of the Director General
on the
Implementation of Safeguards in the Islamic Republic of Iran
(GOV/2014/58 dated 7 November 2014)
20 November 2014**

I. General comments:

1. As the IAEA Director General's report indicated once and again, Iran's nuclear activities remain peaceful and under the full-scope safeguards of the IAEA.
2. Nuclear material in Iran has never been diverted from peaceful purposes. The Agency continues to verify the non- diversion of declared material at Iran's nuclear facilities and locations outside facilities (LOFs). All six outstanding issues identified by the Agency in the mutually agreed "Work Plan" (INFCIRC/711) were resolved and reported to the Board of Governors by the former Director General (GOV/2007/58 and GOV/2008/4).
3. The Islamic Republic of Iran has already provided its views, through previous INFCIRCs¹ on some repeated paragraphs of the Director General's Report GOV/2014/58, dated 7 November 2014, which also appeared in earlier DG's reports. However, Iran's strong reservations on the following points are reiterated:

A. Design Information (Modified Code 3.1 of Subsidiary Arrangements)

Iran voluntarily implemented the modified code 3.1 of the Subsidiary Arrangements starting from 2003, but suspended its implementation pursuant to the adoption of illegal United Nations Security Council (UNSC) resolutions against Iran's peaceful nuclear activities. However, Iran is currently implementing code 3.1 of its Subsidiary Arrangements.

B. Additional Protocol

1. The Additional Protocol (AP), until it is ratified through established legal process by Member States, could not be considered a legally binding instrument and is voluntary in nature. Many Member States (55 as reported by SIR 2013) including Iran are not implementing this voluntary protocol. It should be reminded that Iran implemented AP

¹ - INFCIRCs / 786, 804, 805, 810, 817, 823, 827, 833, 837, 847, 849, 850, 853, 854, 857, 861, 866 and 868.

for more than 2.5 years (2003-2006) voluntarily as a confidence-building measure. In spite of Iran's voluntary implementation of AP as a confidence-building measure, unjustified and politically motivated resolutions were adopted against Iran in the Board of Governors (BOG) meetings. According to the established international law, no sovereign State can be forced in any circumstances to adhere to an international instrument, in particular to an instrument like AP, which is voluntary in nature. It is not acceptable that a voluntary instrument to be turned into a legal obligation without consent of a sovereign State. As it was reaffirmed by the 2010 NPT Review Conference (NPT/CONF.2010/50 (Vol. I)) and the IAEA General Conference relevant resolutions including (GC (58)/ RES/14), "it is the sovereign decision of any State to conclude an additional protocol".

2. The footnote 72 of the report reads that "*the Board has confirmed on numerous occasions, since as early as 1992, that paragraph 2 of INFCIRC/153 (Corr.), which corresponds to Article 2 of Iran's Safeguards Agreement, authorizes and requires the Agency to seek to verify both the non-diversion of nuclear material from declared activities (i.e. correctness) and the absence of undeclared nuclear activities in the State (i.e. completeness) (see, for example, GOV/OR.864, para.49 and GOV/OR.865, paras. 53-54)*". Nevertheless the Agency is not required, according to the Safeguards Agreement, to seek to verify the absence of undeclared nuclear material and activities (i.e. completeness) in a Member State with a CSA in force. In fact, the Safeguards Agreement spells out the Agency's "right and obligation to ensure that the safeguards will be applied, in accordance with the terms of this Agreement, on all source or special fissionable material". At the same time, the BOG has never authorized or required the Agency to seek to verify both the non-diversion of nuclear material from declared activities (i.e. correctness) and the absence of undeclared nuclear activities in a Member State. The records of GOV/OR.864 clearly show that this was a personal view and only a sum-up made by Chairman at that BOG meeting followed by reservations expressed by some Board Members to reject Chairman's view asserted in the statement. Therefore, GOV/OR.864 does not represent a Board decision and should not serve as a basis for "unilateral interpretation". On the other hand, the Agency's access to open source information does not authorize it to require a Member State to provide information or access beyond its safeguards agreement.

C. Illegal Resolutions of the IAEA Board of Governors (BOG) and UNSC regarding Iran's peaceful nuclear program

The Islamic Republic of Iran has already made it clear, that based on the provisions of the IAEA Statute and the Safeguards Agreement, the BOG resolutions against Iran are illegal and unjustified. The issue of Iran's peaceful nuclear program has unlawfully been conveyed to the UNSC. In this context, adoption of politically motivated, illegal and unjust UNSC resolutions against Iran is neither legitimate nor acceptable. Even the permanent members of UNSC by adhering to the Joint Plan of Action, have already accepted, in practice, that those illegal UNSC resolutions are not valid anymore. Therefore, any request by the Agency stemming from those resolutions is not justifiable.

D. Detailed Information and Confidentiality

1. The Agency should strictly observe its obligations under Article VII.F of the Agency's Statute and Article 5 of the Safeguards Agreement between the Islamic Republic of Iran and the Agency, both emphasizing on the confidentiality requirements. As was emphasized in previous Iran's Explanatory Notes, the information collected during inspections of nuclear facilities should be considered as confidential information. However, once again, the report in contradiction to the Agency's statutory mandate and the Safeguards Agreement (INFCIRC/214) contains numerous confidential technical details that should have not been published.
2. It should be reminded that the Agency, under the "Joint Statement on a Framework for Cooperation", agreed to continue to take into account Iran's security concerns, including through the use of managed access and the protection of confidential information. In this regard, it is a source of concern that even before the distribution of the Agency's reports, information on such reports leaks to some news agencies. Therefore, we continue to request the Agency is requested to investigate this serious matter.

II. New Developments:

1. Under the "Joint Statement on a Framework for Cooperation", the Agency and Iran agreed "to strengthen their cooperation and dialogue aimed at ensuring the exclusively peaceful nature of Iran's nuclear programme through the resolution of all outstanding issues that have not already been resolved by the IAEA." As it was agreed, "Iran and the IAEA will cooperate further with respect to verification activities to be undertaken by the IAEA to resolve all present and past issues". There is no reference in the Joint Statement with regard to the so-called "Possible Military Dimension (PMD)" or "Alleged Studies" as Iran has not recognized such irrelevant notions. Therefore, we have a strong reservation on inclusion of any agreed practical measures already implemented or to be implemented under the "Joint Statement on a Framework for Cooperation" into the Section H of the report.
2. Based on the Framework for Cooperation, the Islamic Republic of Iran has voluntarily implemented most of the 18 practical measures agreed by Iran and the Agency. Two remaining measures are currently under discussion with the Agency.
3. During technical meetings in Tehran on 7 and 8 October 2014 and 2 November 2014, Iranian and Agency officials held discussions in relation to the implementation of the two above-mentioned practical measures.
4. On one of the practical measures under consideration, Iran, during those meetings, provided detailed explanations on the documents shown by the Agency to Iran and provided pieces of evidence that indicate such documents are fabricated. Those forged documents have no sign to prove that they are of Iranian origin and contrary to such claim; the documents are full of mistakes and contain fake names with specific pronunciations, which only point toward a certain Member of the IAEA as their forger.

5. On the other practical measure, we have also provided explanations on related open source scientific publications. Needless to say, such purely scientific papers are accessible to public and the mere fact that no country in the world would ever publicly publish papers related to a prohibited program is a proof for the correctness of Iran's statement in this regard. It was a surprise and very inaccurate that the Agency's report asserted "Iran has not however provided any explanations that enable the Agency to clarify the two outstanding practical measures." Indeed, invalidity of Agency's information or better to say invalidity of information given to the Agency and lack of substantiated evidences at the disposal of the Agency are the major problems on these issues.
6. In continuation of our cooperation with the Agency, we intend to arrange another technical meeting on these two practical measures as soon as we receive specific questions of the Agency with substantiated documents in order to conclude them and once these issues are clarified and closed, we can start considering implementation of new practical measure.
7. Iran has fully cooperated with Agency on implementation of the practical measures under the "Joint Statement on a Framework for Cooperation", and on providing all requested information on those measures. Iran, therefore, believes that all outstanding issues in relation to those practical measures which have already been implemented are resolved and closed.
8. There have never been any authenticated documents for PMD claims and as it was underlined by the former Director General in his reports (GOV/2009/55), even the Agency has limited means to validate independently the documentation that forms the basis of it and thus in reality, there is no "system" requiring any kind of "system assessment". Moreover so-called system assessment is not consistent with the step-by-step approach, agreed in the Framework for Cooperation. However, based on our principled positions, we continue to cooperate with the IAEA on some of the ambiguities in order to clarify and resolve them.
9. Since the issue of visa for one staff was again referred to in the report, we would like to state the following: While the IAEA has added three new members to its team just in recent months all of whom got visas on time, it is surprising that the report refers to visa of "one member" that has "certain nationality". Issuing visa is our sovereign national right and we will issue it when we deem it appropriate. Inclusion of such unrelated issue in the report has no benefit and is actually counterproductive.
10. As it was referred in a letter to the IAEA Director General, on 23 August 2014 (INFCIRC/867) an unmanned aerial vehicle (spy drone), built and operated, by the Israeli regime, violated the Iranian airspace in an attempt to conduct spy mission in the zone where Natanz Nuclear Facilities are located. This act of aggression which once again revealed the true nature of the Israeli regime, is in flagrant violation of the relevant IAEA General Conference Resolutions on inviolability of peaceful nuclear activities and installations, including GC resolutions 533 and 444 which stipulate, inter alia, that "any armed attack on and threat against nuclear facilities devoted to peaceful purposes constitutes a violation of the principles of the United Nations Charter, international law and the Statute of the Agency". The Islamic Republic of

Iran strongly condemns this act of aggression while reiterating its position that it reserves right to undertake all legitimate necessary measures to defend its territory and warns against such provocative act, which would result in serious consequences for the aggressor.

11. The Islamic Republic of Iran expects that the implementation of voluntary confidence building measures, under “Joint Plan of Action” and “Framework for Cooperation” would lead to resolution of all ambiguities regarding Iran’s peaceful nuclear activities and to implementation of safeguards in routine manner.
12. It is hoped that the cooperative atmosphere and constructive engagement created between Iran and the Agency would lead to removal of fabricated ambiguities regarding exclusive peaceful nature of Iran’s nuclear programme in a step-by-step manner.