

Information Circular

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Communication dated 11 September 2015 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 11 September 2015 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/2015/50 (27 August 2015).
2. The communication and, as requested by the Permanent Mission, the explanatory note are circulated herewith for information.

In the name of God

بِسْمِ اللَّهِ



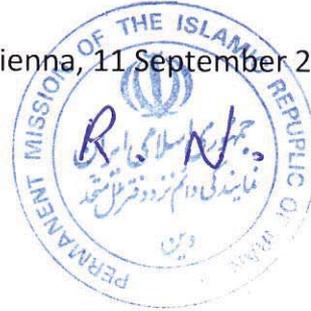
*Permanent Mission of
ISLAMIC REPUBLIC OF IRAN
to the International Atomic Energy Agency (IAEA)*

No. 120/2015

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/2015/50 dated 27 August 2015) 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, 11 September 2015



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/2015/50 dated 27 August 2015)
September 2015**

Introductory remarks:

The finalization of the Joint Comprehensive Plan of Action (JCPOA) on 14 July 2015 indicates a significant step by the Islamic Republic of Iran and E3/EU+3 to resolve, through negotiations and based on mutual respect, an unnecessary crisis, which had been manufactured by baseless allegations about Iranian peaceful nuclear program, followed by unjustified politically-motivated measures against the people of Iran. The International Atomic Energy Agency (IAEA) and Iran also agreed on a Road-map, in continuation of their cooperation under the Framework for Cooperation, to accelerate and strengthen their cooperation and dialogue aimed at the resolution, by the end of 2015, of all past and present outstanding issues that have not already been resolved by the IAEA and Iran. While the United Nations Security Council resolution 2231 endorsed the JCPOA and provided for the termination of all unjustified previous resolutions of the Council against Iran's nuclear program, the recent report of the Agency kept its old format with repetitive content. Therefore, this explanatory note reluctantly would be with the same content similar to the previous ones.

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

¹ - INFCIRCS / 786, 804, 805, 810, 817, 823, 827, 833, 837, 847, 849, 850, 853, 854, 857, 861, 866, 868 ,871, 873 and 885.

GOV/2015/34, dated 29 May 2015, 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. Under the JCPOA, Iran would start re-implementing this code.

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 (54 as reported by SIR 2014) including Iran are not implementing this voluntary protocol. It should be reminded that Iran implemented AP 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 79 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 Comprehensive Safeguards Agreement 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 (i.e. completeness). 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.

3. Under the JCPOA, Iran would start provisionally applying the Additional Protocol, pending its ratification by the Majlis (Parliament).

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.

As envisaged in the preamble of the UNSC resolution 2231 resolution, pursuant to the conclusion of the JCPOA, there should be a fundamental shift in the Security Council's approach on this issue. The same fundamental shift should be followed in the IAEA, including in the Board of Governors.

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 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 to investigate this serious matter.
3. One of the important elements of the Road-map is confidentiality. The Agency is also committed to observe Iran's security concerns. Given the bitter experiences in the past that some classified information leaked to outside of the Agency and taking into account the severe espionage attempts by the infamous intelligent services that even committed the

criminal and terrorist acts like assassinating scientists to reach their evil goals, the Agency must redouble its efforts to protect the confidential information coming to its knowledge during the implementation of the Road-map and JCPOA. Iran will never accept any negligence for disclosure of the classified information.

II. New Developments:

1. During the visit of Director General to Tehran on 2 July 2015, H. E. President Rouhani in a meeting with the DG emphasized on Iran's readiness for the acceleration of the process of resolution of all remaining issues. H. E. Mr. Shamkhani, the Secretary for the Supreme National Security Council has also had constructing meetings with the DG and they agreed on the principles of a road-map which led afterward on the agreement of 14 July 2015.
2. 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 DG report.
3. Based on the Framework for Cooperation, the Islamic Republic of Iran has voluntarily implemented 18 practical measures agreed by Iran and the Agency.
4. Furthermore, in order to facilitate the clarification of the issues by the Agency, Iran has reiterated several times its readiness to give one managed access to the Agency, exceptionally and on a voluntarily basis, to one of the alleged sites, in "the region of Marivan". It is reminded that the Agency in its November 2011 report claimed that "[F]urther information provided to the Agency by the same Member State indicates that the large scale high explosive experiments were conducted by Iran in the region of Marivan." The region of Marivan, as we showed to the Agency is more than 2000 square kilometers. Such alleged experiments could easily be traced if the exact site would be visited. We are sure that those allegations like the other ones are fake, baseless and fabricated. Therefore, the so-called "same Member State" who had given other misleading information to the Agency, must either give coordinates of the alleged site to the IAEA to enable the Agency to verify its claim or come clean and confess that it has given the fabricated information to the Agency and misled other Member States.
5. 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.

6. The Agency verification process regarding Iran's peaceful nuclear activities has been a target of the intelligent sources to plant substantial piece of forged information. The Islamic Republic of Iran has cautioned the Agency in numerous cases in this regard as well as requesting access to original data to verify the authenticity of alleged accusation. It is strongly expected from the Agency to welcome this call by taking clarified and flawless approach.
7. 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. 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.
8. 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.
9. In continuation of their cooperation under the Framework for Cooperation, to accelerate and strengthen their cooperation and dialogue aimed at the resolution, by the end of 2015, of all past and present outstanding issues that have not already been resolved by the IAEA and Iran, a Road-map concluded between the Agency and Iran. Iran is committed to faithfully implement its voluntary undertakings under the Road-map. As it has already been informed by the Agency, Iran has provided its explanations in writing and related documents on 15 August 2015 as agreed in the Road-map. The Agency also reviewed Iran's explanations and submitted its questions on 8 September which would be considered and then there would be joint technical meetings for further discussions.