

# Information Circular

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## Communication dated 8 June 2020 received from the Permanent Mission of the Islamic Republic of Iran to the Agency

1. The Secretariat has received a communication dated 8 June 2020 from the Permanent Mission of the Islamic Republic of Iran to the Agency, enclosing an explanatory note on the report of the Director General on “NPT Safeguards Agreement with the Islamic Republic of Iran (GOV/2020/30)” released on 5 June 2020.
2. The communication and, as requested by the Permanent Mission, the explanatory note are circulated herewith for information.



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

No. 451133

The Permanent Mission of the Islamic Republic of Iran to the United Nations and other International Organizations in Vienna presents its compliments to the International Atomic Energy Agency's Secretariat and following the Report of the IAEA Director General entitled "NPT Safeguards Agreement with the Islamic Republic of Iran (GOV/2020/30)" released on Tuesday 05 June 2020, has the honor to herewith enclose an Explanatory Note conveying some preliminary comments in this regard.

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

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

**To: The Secretariat of Policy Making Organs  
International Atomic Energy Agency**





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### **Explanatory Note**

#### **On the Report of the IAEA Director General entitled “NPT Safeguards Agreement with the Islamic Republic of Iran (GOV/2020/30)”**

(08 June 2020)

Following the Report of the IAEA Director General entitled “NPT Safeguards Agreement with the Islamic Republic of Iran (GOV/2020/30)” released on 05 June 2020, the Permanent Mission of the Islamic Republic of Iran to the International Organizations in Vienna would like to share some preliminary comments as follows:

#### **A. General Comments:**

1. Since “the implementation day”, the Agency has been verifying and monitoring the implementation by Iran of its nuclear related commitments under the Joint Comprehensive Plan of Action (JCPoA). As the IAEA Director General's reports during the past 4 years indicated, Iran's nuclear activities remain peaceful and under the full-scope safeguards of the IAEA. And, the Agency continues to verify the non-diversion of nuclear materials at Iran's nuclear facilities and locations outside facilities (LOFs).
2. The IAEA has carried out complementary accesses in Iran, which are often at short notice at all locations in Iran it has needed to visit, and that the agency sends



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inspectors to sites and locations when needed. According to the latest statistics for 2019 (SIR 2019), **out of 466 inspections** conducted among States with CSA and AP in force without Broader Conclusions, **432 of them (around 93 %)** were carried out only in Iran. Also, **out of 45 complementary accesses** conducted among the States of the same group in 2018, **33 of them (around 73%)** were carried out in Iran. It is clear that the share of Iran's inspections in the total inspections carried out by the Agency in the period of 2010 to 2019 at the global level has increased **from around 4 percent to 20 percent**. All in all, **almost 7 inspectors are present in Iran per day**.

3. It should be noted that according to Article 4(c) of the Additional protocol, any request for access by the Agency *"shall specify the reasons for access"*. In its early request for clarification and access to two locations, the Agency did not present credible and reliable legal reasoning and only copies of papers were presented to Iran by the Agency as the basis for its requests, which to the Islamic Republic of Iran, they are neither authentic nor even related to any open-source.
4. Principally speaking, the Islamic Republic of Iran, like many other States, believes that merely forwarding some papers based on the Intelligence Services' fabricated information is neither consistent with the Agency's Statute, Comprehensive Safeguards Agreement, and the Additional Protocol, nor bodes well for the credibility and integrity of the Agency.
5. The Islamic Republic of Iran does not want to set a bad precedence by giving legitimacy to such alleged information and even considers it counterproductive for the credibility of the Agency, to the detriment of its



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relations with the Member States.

6. Hence, the Islamic Republic of Iran expects that the Agency does not take any information at face value, and concurs with the Director General that the Agency's independence in relation to the implementation of verification activities is of paramount importance for its credibility.

## **B. Evaluation and corroboration of information**

7. In accordance with Article 34 of the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations, "a treaty cannot create rights and obligations for a third party without its consent". That is to say that, a non-party of the safeguards agreement without adhering to such instruments, cannot exploit some of the rights and benefits mentioned in the agreement and use it against any party in order to raise allegations and/or involve the Agency in an endless process. This provision is augmented by the principle of "*pacta tertiis nec nocent nec prosunt*", which denoted that "treaties neither obligate nor benefit third parties". Therefore, the IAEA's request which is based upon allegations raised by a third party not a member of the NPT, has no legal ground to uphold any argumentation by raising questions or inconsistency.
8. According to IAEA safeguards glossary, open source information means: "*information generally available to the public from external sources, such as scientific literature; official information; information issued by public organizations; commercial companies and the news media; and commercial*



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*satellite images*". Needless to say that, information claimed to be obtained through so-called secret operation or intelligence activities is not included in this definition, thus should not have any legal status in the verification activities process.

9. By any means, authentication and reliability of data are two essential factors in the corroboration process of information by the Agency.
10. On the same ground, any requests by the Agency for amplifications or clarifications pursuant to Article 69 of the CSA and Article 4.d of the Additional Protocol should be based on evidences which are originated from authenticated information in so far as relevant for the purpose of safeguards. Making reference to article 69 of the CSA to request access in this regard is not justifiable, because requests based on that article should be applied in order to supply amplification or clarification of any report in so far as relevant for the safeguards, most importantly State's Accounting Reports under CSA.
11. Additionally, as stipulated in the chapeau of the article 4 of the AP, essentially all provisions of this article shall be met as pre-requisites to implement article 5 of the AP. Furthermore, while considering the scope of the legal status of CSA and AP, it is noteworthy that the concerned information could not trigger raising a question or an inconsistency issue relating to declared nuclear material reports or the correctness of the information declared pursuant to article 2 of the AP. Also, in case of any request for complementary access based on article 5c, the Agency should merely focus on the resolution of the question or inconsistency related to the correctness and completeness of the provided information under the AP, without any pre-judgement before



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drawing impartial and independent objective conclusions, using only technically validated information, and must refrain from linking the requested Complimentary Access (CA) directly to the absence of undeclared nuclear material or nuclear activities issue.

### **C. The Latest Status of the Bilateral Consultations**

12. In line with its expressed willingness before the March Board Meeting, the Islamic Republic of Iran continued its constructive engagement with the Agency during the past two months, with a view to reach a common understanding on different aspects of the requests of the Agency, which would pave the way for the resolution of concerned issues.
13. In this regard, two rounds of consultations were held in Tehran on 29 April and 16 May 2020, between the authorities of the Islamic Republic of Iran and the IAEA delegation headed by DDG for Safeguards.
14. In these consultations, the two sides entered into substantive discussions on how to address the issues in a professional and conducive manner. Both sides presented their argumentations for the positions they have taken so far.
15. Considering the current level of its cooperation with the Agency and respecting the Agency's rights, Iran, however, also raised three main ambiguities and concerns in these discussions, believing to be legally and technically legitimate;





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- **Firstly**, as it is well-known, in July 2015, Iran and the IAEA agreed on a “Roadmap for Clarification of Past and Present Outstanding Issues. The report of the late IAEA Director General to the Board of Governors in December 2015, which contains the Agency’s “final assessment on the resolution” of the aforementioned outstanding issues, states that “[a]ll the activities contained in the road-map were implemented in accordance with the agreed schedule.” In response to this report, the Board adopted resolution 2015/72 on 15 December 2015 that notes Iran’s cooperation with the road map and “further notes that this closes the Board’s consideration” of the “outstanding issues regarding Iran’s nuclear programme.” Based on this, Iran expressed its concern over the attempts to change the gear to re-open, under different pretexts, the “outstanding issues” which have been closed.
- **Secondly**, it is also a matter of grave concern for Iran that the current approach taken by the IAEA is based on invalid and safeguards-irrelevant information which are not publicly available and verifiable. As emphasized in several General Conference Resolutions, it should be noted that the Agency is expected to fully exercise its authority in accordance with the Statute in the implementation of safeguards agreements, for drawing independent objective conclusions using only impartial and technically-based validated information.

While the Agency is mandated to carry out verification activities in accordance with its relevant instruments, it is a matter of serious concern that the current approach is hinged upon implementing its request based on safeguards-irrelevant information which are not publicly available and





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verifiable.

**Thirdly**, Iran has also expressed its concerns over attempts to open an endless process of engagement with the Agency in order to verify and clean-up thousands of pages of fabricated allegations.

16. Building upon these constructive rounds of consultations, and after the internal deliberations, the Agency has sent a letter to Iran on 21 May 2020.
17. Tehran replied to the Agency's letter on 02 June 2020 and indicated that given the extensive cooperation between the Agency and Iran and significant amount of verification activities going on in Iran, as well as considering some legal ambiguities and concerns that were discussed in Tehran on 16 May 2020 which still need further clarification, its position on such non-urgent issue should not be called as "denial". As indicated in the meetings with the Agency's delegation in Tehran, in its letter, Iran underlined that it is willing to satisfy the Agency's requests. Iran also reaffirmed its determination to continue its cooperation with the Agency and accordingly, invited the Deputy Director General for Safeguards to Tehran for further discussions or hold a meeting in Vienna with Iranian delegation at the earliest time convenient for the Agency.
18. Needless to say that, the current status should be considered a big leap forward in addressing the issues concerned.



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**D. Concluding notes:**

19. The Islamic Republic of Iran would like to reiterate its confidence that the implementation of the verification activities in good-faith will also help restore the confidence of Iranian people who have been unduly subjected to unilateral and illegal coercive measures.
20. Considering the current level of cooperation between Iran and the Agency, it is worth mentioning again that all, including the Agency and the Member States have the responsibility to show wisdom in addressing such issues in a diligent manner in order to avoid distorting the bigger picture of cooperation between Iran and the IAEA. Indeed, at this critical juncture, which is replete with serious problems of different kinds, including around the JCPOA, the secretariat, and the Agency as a whole, have an enormous responsibility to maintain and preserve the Agency's professionalism, impartiality and independence, thus its credibility.
21. The Islamic Republic of Iran would like to reaffirm its determination to continue to engage and cooperate with the Agency in line with its commitments and consistent with its rights and responsibilities under the Safeguards Agreements. In view of this, the Islamic Republic of Iran respects the right of the Agency for raising legitimate requests in line with its mandate and in accordance with the approved procedures, while it also underscores its rights as a Member State to seek for underlying reasons and supporting documents and argumentations from the Agency in this regard.

In view of this, Iran earnestly requests the Secretariat and Members of the Agency to show vigilance and precautions in dealing with this and do not rush to any pre-



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judgement before the clouds of ambiguities are gone and the sun is shining again in the sky.

22. While Iran stands ready to continue its consultations with the Agency with a view to settle the thematic differences and resolve the issues at hand as soon as possible, release of the current report by the Director General is received with deep regret and disappointment.