

Information Circular

INFCIRC/866

Date: 13 June 2014

General Distribution

Original: English

Communication dated 4 June 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 4 June 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/2014/28 (23 May 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)*

INFCIRC/866
Attachment

ایران

No.99/2014

The Permanent Mission of the Islamic Republic of Iran to the International Atomic Energy Agency presents its complements 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 on the report of the Director General on the Implementation of Safeguards in the Islamic Republic of Iran (GOV/2014/28 dated 23 May 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 the 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.



To the Secretariat of 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/2014/28 dated 23 May 2014)**

4 June 2014

I. General comments:

1. As the DG 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 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 Report GOV/2014/28, dated 23 May 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 Arrangement)

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 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

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

Board of Governors 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 (57)/ RES/13), “it is the sovereign decision of any State to conclude an additional protocol”.

2. The footnote 65 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. 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 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. Therefore, any request by the Agency stemming from those resolutions is not justifiable.

D. Detailed Information and Confidentiality

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 I.R. 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.

II. New Developments:

1. As the General Director reported, Iran has implemented voluntarily seven additional practical measures, which were specified in "Joint Statement on a Framework for Cooperation (GOV/INF/2013/14). The Director General has declared that Iran has implemented all of the seven practical measures.
2. It should be reminded that the Agency 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 a few NGOs and news agencies widely distributed some information claimed to be disclosed by "knowledgeable senior officials close to the IAEA". Therefore, the Agency is requested to investigate this serious matter as soon as possible.
3. Following implementation of second set of practical measures under "Joint Statement on a Framework for Cooperation", Iran and the Agency agreed to proceed with five additional measures to be implemented by 25 August 2014. The list of these five practical measures is attached to the joint statement by Iran and IAEA dated 21 May 2014. The attachment does not have any footnote. Therefore, footnotes number 55 and 56 of the Agency's report are beyond the agreement and cannot construe any basis for future work with the Agency.
4. 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". Therefore, we have a strong reservation on inclusion of any agreed practical measures already implemented or to be implemented by 25 August 2014 under Section H of the report.
5. Iran has fully cooperated with Agency by full implementation of the all practical measures under the "Joint Statement on a Framework for Cooperation", within the specified time frame and provided all requested information on those measures. In the same spirit Iran provided information and explanations for the Agency to assess Iran's stated need or application for the development of Exploding Bridge Wire detonators (EBW). Iran, therefore, believes that all outstanding issues in relation to these practical measures have been resolved.

6. The Islamic Republic of Iran expects that the implementation of confidence building measures, under “Geneva 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.
7. It is hoped that the cooperative atmosphere and constructive engagement created between Iran and the Agency would lead to removal of any ambiguities regarding exclusive peaceful nature of Iran’s nuclear programme in a step-by-step manner.