

Information Circular

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

1. On 14 September 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

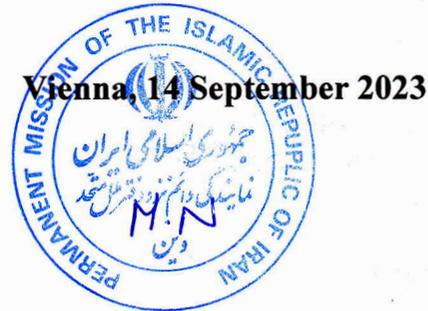
In the Name of God, the Most Compassionate, the Most Merciful

No. 1749554

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 Report of the IAEA Director General on "NPT Safeguards Agreement with the Islamic Republic of Iran" (GOV/2023/43 dated 4 September 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 considerations.



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 Report of the Director General to the IAEA Board of Governors
entitled “NPT Safeguards Agreement with the Islamic Republic of Iran”
(GOV/2023/43 - 4 September 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/2023/43 as follows:

A. General Comments

1. The Islamic Republic of Iran has complied fully with its obligations under its Comprehensive Safeguards Agreement (INFCIRC/214) and has done its utmost to enable the Agency to effectively carry out its robust 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. In light of further cooperation with the Agency, Iran agreed to further cooperate voluntarily with the Agency in framework of three different Joint Statements including the 4th March 2023.
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 para 65 of Annex I to the JCPOA).

5. Verification and monitoring activities related to production of centrifuges, rotors and bellows, heavy water and Uranium Ore Concentrate (UOC) which are defined in the scope of JCPOA, should not be reported under the NPT Safeguards Agreement Agenda Item.

6. 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. Systematic breach of obligation under above resolutions by Israeli regime is nothing but total negligence to the repeated call of international community to abandon its nuclear weapon program and compel from any attack or threat of attack to any nuclear facilities/installations.

B. Comments on the report, Background:

7. 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:

- For States with only the CSA, the safeguards objectives stipulated in para. 28 of INFCIRC/153 are: to detect any diversion of declared nuclear material at declared facilities or locations outside facilities (LOFs). In this regard, the objective is to the timely detection of diversion of significant quantities of nuclear material from peaceful

nuclear activities for nuclear weapons.

- Surprisingly, the Agency has taken an approach to gradually expand the safeguards objective beyond the obligations stipulated in para. 28. In the first step, the Agency reported in para. 2 as “*no indications of undeclared nuclear material and activities*” which is obviously considered as an Additional Protocol objective which is not related to the CSA. And moreover the phrase of “*no indications of undeclared production or processing of nuclear material*” is out of the CSA scope.
 - The reference indicated in footnote 4, (GOV/2020/15, para. 2, GOV/2019/22, paras. 11 and 12), is not relevant to States with only CSA in force. Adoption of a fluid approach by the Agency to the implementation of the provisions on CSA and its applicability to a Member State is a matter of grave concern. Divergent position inconsistent with this provision has been taken by the Agency in a few occasions. Such approach is neither lawful nor justified on a professional ground, taking into account the letter and spirit of this provision.
8. Regarding paragraph 4 of the report which states: “*the Director General has expressed his deep concern that nuclear material had been present at these undeclared locations*”. It should be noted that:
- The Agency's requests have not been supported by safeguards-relevant authentic information, documents and evidences, so far.
 - As explained by the Islamic Republic of Iran frequently (e.g.: INFCIRC/996 dated 7 June 2022 and INFCIRC/967 dated 3 December 2021), there has never been any undeclared location which is required to be declared under the CSA. Iran’s nuclear activities remain peaceful under Agency's full-scope safeguards. Therefore, there has not been any legal base for expressing “*deep concern*” by the Director General.
 - The mere finding of uranium particles in environmental samples in a location cannot be considered as an indication that quantity of nuclear material had been presented at that location. Therefore, without taking into account other possible causes, the Agency’s assessment and conclusion made hastily on storage of nuclear material and equipment at the claimed locations does not stand to be valid.

- As it was explained in many occasions to the Agency, the allegations have no legal basis. In fact, there is no undeclared nuclear material in Iran, and the Agency assertion is merely based on false and fabricated information provided by illegitimate Israeli regime with longstanding ill-repute of stringing chains of lies.
 - In light of further cooperation with the Agency, Iran has provided its explanations about probable causes of the presence of uranium particles in the locations. Iran has exhausted all its efforts so as to discover the origin of such particles. Given the fact that Iran could not yet find any technical reasons for the presence of uranium particles, it would reasonably imply that possibly external elements, such as sabotage and/or malicious act, have been involved in the contamination of those locations.
9. The report further states in paragraph 5, “...*unless and until Iran provided technically credible explanations for the presence of nuclear material particles at the three undeclared locations in Iran and informed the Agency of the current location(s) of the nuclear material and/or of the contaminated equipment...*” it should be noted that:
- The phrase “*nuclear material particles*” being used instead of “*uranium particles*”, reflected in the previous report (GOV/2023/26), leads to misinterpretation, and 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.
 - As it is frequently explained by the Islamic Republic of Iran, there has never been any undeclared location which is required to be declared under the CSA. Furthermore, in the intensive investigations into the background of activities carried out in the two locations, the origin of the particles reported by the Agency was not found. There has not been any nuclear activity or storage in this location. Since technically the origin of reported particles has not yet been found, the possibility of presence of such particles by sabotage should not be excluded.
10. Paragraph 6 of the report in which “*profound concern*” due to the so-called “*insufficient substantive cooperation by Iran*” is expressed, undermines and overlooks Iran’s cooperation with the Agency rendered under the Joint Statements.
11. The report states in paragraph 10: “...*This increase of knowledge of Iran’s nuclear-related activities and the resolution of the outstanding safeguards issues is indispensable for the*

Agency to be able to provide credible assurances of the peaceful nature of Iran's nuclear programme". In this regard, following facts need to be specified:

- Information regarding Iran's nuclear-related activities such as production of centrifuges, rotors and bellows, heavy water and UOC shall not be considered as safeguards-related knowledge, and do not fall into the scope of the CSA; they are merely related to Iran's undertakings under the JCPOA.
- The assurances of the peaceful nature of Iran's nuclear programme shall only be made within the framework of the CSA and shall not unlawfully be pending to the increase of the Agency's knowledge of Iran's non-nuclear activities.

12. Iran's comments and explanations on the paragraph 15 of the report "...the Agency's assessment of the activities that were undertaken by Iran at 'Marivan' remains as set out most recently in GOV/2022/26, para.20" has already been reflected in INFCIRC/1094, para. 8.

C. Comments on the report, Implementation of the Joint Statement in this reporting period:

13. Paragraph 19 regarding de-designation of Agency inspector and on the issue of visa of an Agency official; based on Article 9 of the CSA, objecting the designation of inspectors, at any time even after a designation has been made, is a sovereign right of Member States. Regarding the visa issue, each and every Member State, in exercise of its right recognized under CSA as well as international law, might decide to grant or deny a visa request. It should be expressed that the reasons for denial had been explained to the Agency in advance.

14. Paragraph 20 states, "*The Agency assesses that Varamin was an undeclared pilot-scale plant used between 1999 and 2003 for the processing and milling of uranium ore and conversion into uranium oxide and, at laboratory scale, into UF₄ and UF₆. This location underwent significant changes in 2004, including the demolition of most buildings. The analytical results of environmental samples taken by the Agency at Varamin in August 2020 indicated the presence of anthropogenic uranium particles, consistent with uranium conversion activities that required explanation by Iran. The Agency also assesses that there are indications, supported by the results of the environmental samples analysis, that containers removed from Varamin were eventually transferred to Turqzabad. However,*

the nuclear activities assessed by the Agency to have been carried out at Varamin do not explain the presence of the multiple types of isotopically altered particles found at Turqzabad". It should be mentioned that:

- 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*" as stated in para 20 of the report, is not supported by any authentic document, and therefore cannot be accepted.
- The Agency's claim based on the satellite imagery that "*... containers removed from Varamin were eventually transferred to Turqzabad ...*" is not correct, provable and verifiable.

15. Paragraph 21 states that "*The Agency assesses that Turqzabad was involved in the storage of nuclear material and equipment. The Agency concluded that the containers that were stored at Turqzabad had either contained nuclear material or equipment that had been heavily contaminated with nuclear material, or both. The Agency assesses that while some of the containers stored at Turqzabad were dismantled at the location, others were removed from the location intact in 2018 and moved to an unknown location*". It should be mentioned that:

- Such assessment is not based on authentic information and evidence. Turqzabad 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, information has already been provided to the Agency.

16. The Agency's report states in paragraph 26 *"The Agency has had no access to any of the data recorded by its cameras monitoring the production of centrifuges, rotors and bellows, heavy water and UOC since February 2021. Since June 2022, the only recorded data that exists is that collected by cameras installed at workshops in Esfahan in May 2023. It is indispensable that Iran provide the Agency with access to all existing recorded data and agrees with the Agency on specific arrangements aimed at trying to fill the gaps in the Agency's knowledge for the periods when no recorded data exists"*. It should be mentioned that:

- As a principle, implementation of further verification and monitoring activities at workshops in Esfahan, where centrifuge rotor tubes and bellows are manufactured, are entirely remained in scope of JCPOA on a voluntary basis and is out of obligations under the CSA.
- All transparency measures under the JCPOA has been ceased by the Parliament law called *"Strategic Action to Remove Sanctions and Protect the Interests of the Iranian Nation"*, in response to outright violation of the JCPOA by the U.S. and in exercising of its rights under paragraphs 26 and 36 of the JCPOA.
- According to aforementioned facts, the Agency's request to access to the data recorded by the cameras during period between February 2021 and June 2022 as well as those data recorded since 2-3 May 2023 currently are not subject to this agreement.

D. Comments on the report, Other Safeguards Issues:

17. The cameras referred to in paragraph 28 are not safeguards cameras which are installed voluntarily for non-nuclear purposes. However, as reported in paragraph 29, these cameras have already been serviced.

The installation of cameras referred to in paragraph 28 does not fall under the CSA, but Iran carried out this measure voluntarily *"to allow the IAEA to implement further*

appropriate verification and monitoring activities” under Joint Statement of 4 March 2023. This voluntary measure has been made in good faith even in the absence of modalities which needed to be agreed upon.

18. The Agency’s report states in paragraph 30 (under Section D) of the report “... *the Agency verified at the Uranium Conversion Facility (UCF) the dissolution of 302.7 kg of natural uranium, as declared by Iran, in the form of solid waste and items of uranium metal transferred from the Jaber Ibn Hayan Multipurpose Laboratory (JHL). The Agency identified a discrepancy that needed to be resolved in the amount of nuclear material it had verified compared to the amount declared by Iran. Iran confirmed the existence of a discrepancy (shortfall) and agreed to work with the Agency to address it*”. It should be mentioned that:

- The uranium metal received at the Uranium Conversion Facility, UCF (IRK-) from the JHL, has been frequently reported by the operator and verified by the Agency since 2003, for which the relevant 90(a) and 90(b) statements have been subsequently provided with satisfaction. Furthermore, this material has been under the Agency’s continuous C/S measures while it was retained at JHL (IRL-) facility and it was still sealed while it was transferred to the UCF (IRK-). Moreover, there has not been any activity performed on this material which could change its status.
- Based on the technical evaluation of the operator concerning the associated large error by using the assay of U-236, evaluation of the amount of uranium content in the dissolved waste material by this method used by the Agency is NOT an accurate measure because of large associated uncertainties on the U-236 measurement and ignoring process procedure for dissolving dirty waste material in large tanks.
- Therefore, the operator's declaration on 18 March 2022 for the uranium content in the four UNH batches before their blending (total 109.847 kg U), which was verified at the same time by the Agency inspectors, has been taken as the basis for the accountancy reports of IRK- facility and there is no need for any correction on the nuclear material accounting records and reports.
- However, as it has been specified in paragraph 30 (under Section D) of the report, the matter is under discussion with the Agency.

19. Regarding the implementation of modified Code 3.1 of the Subsidiary Arrangements, it should be reminded that acceptance of implementation of modified Code 3.1 was among the transparency and confidence building measures, reflected in paragraph 65 of Annex I to the JCPOA. Following the U.S. withdrawal from the JCPOA and failure of the E3/EU to fulfill their commitments under the agreement, Iran, in exercising its rights under para 26 and 36 of the JCPOA, ceased all transparency measures beyond its Safeguards Agreement, including modified Code 3.1.

Furthermore, the Islamic Republic of Iran continues to implement **Code 3.1** as a part of its legal obligations under the Subsidiary Arrangements (General Part) to the CSA. Therefore, the design information for new facilities will be provided in accordance with SA to the Agency in due time.

E. Comments on the report, 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 unnecessary.
21. The Agency's report states in paragraph 41 "*The Director General also regrets that no further progress has been made in implementing the activities set out in the Joint Statement, including Iran's refusal to agree to the Agency's request to install additional cameras at another location*". It should be mentioned that the Agency request to install additional cameras at locations is beyond Iran's CSA obligations, which is against the law passed by the Parliament.
22. Since the Agency has not presented authentic documents to Iran concerning its claim on "*undeclared nuclear material and nuclear-related activities*", 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.

23. On paragraph 44 states, "...*fulfilment of the **commitments** contained in the Joint*

Statement”, it should be reminded the Joint Statement *per se* is voluntary and shall not 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

24. 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.
25. The Islamic Republic of Iran strongly expects that the Agency conducts its reporting on verification activities in Iran based on the principles of impartiality, professionalism and objectivity.
26. 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.
27. 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.
28. The Islamic Republic of Iran, once again, stresses the importance and value of cooperation extended to 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.