

Information Circular

INFCIRC/768

Date: 7 September 2009

General Distribution

Original: English

Communication dated 4 September 2009 received from the Resident Representative of the Islamic Republic of Iran to the Agency regarding the implementation of safeguards in Iran

The Director General has received a letter dated 4 September 2009 from the Resident Representative of the Islamic Republic of Iran to the Agency regarding safeguards implementation in Iran.

As requested by the Permanent Mission of the Islamic Republic of Iran, the communication is herewith circulated for the information of all Member States.

In the name of God



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

Heinestr. 19/1/1 A-1020 Vienna/Austria
Phone: (0043-1) 214 09 71 Fax: (0043-1) 214 09 73 E-mail: PM.Iran_IAEA@chello.at

No. 086/2009

4 September 2009

Excellency,

I have the honor to refer to your last report on implementation of Safeguards in the Islamic Republic of Iran (GOV/2009/55) and inform you of the following to be put on the record of the Agency:

1. The Islamic Republic of Iran has always supported the IAEA as the sole pertinent international technical Organization related to the promotion of peaceful uses of nuclear energy in the world;
2. My Government has trusted you as a sincere international civil servant trying to lead this Organization in a professional and impartial manner;
3. We share the view of many other Member States that you have resisted the political pressure by a few western countries trying to interfere the tasks of the Secretariat and sparing no effort in derailing it from its professional technical mandate. The demarche of the Ambassadors of United States, France and United Kingdom against Your Excellency after the conclusion of the negotiation and agreement on the Work Plan (INFCIRC/711) for the resolution of outstanding issues, in August 2007, is a clear example of such an ill will and political motivation with the aim of keeping the issue on the Agenda of the Board of Governors. However, the immediate historical response by the three Ambassadors of the Troika of the Non-Aligned Movement, representing the majority of Member States, declaring its support for the Work Plan, proved the righteous decision by the Agency and Islamic Republic of Iran. Later, the Board of Governors did endorse the Work Plan. I have to recall that the Work Plan was the fruitful result of a political decision by my Government in response to the appeal by Your Excellency to our former Secretary of the Supreme National Security Council. Following extraordinary cooperation of Iran, all six outstanding issues were resolved and you did report to the Board of Governors such an achievement. Now the document GOV/2009/55 explicitly reports that Iran has performed its obligation on the Alleged Studies as it was foreseen in the Work Plan (INFCIRC/711) by providing its assessment on the so-called Alleged Studies. Therefore the Work Plan is completed and the dossier has to be terminated.

4. On several occasions we have requested that the reports by the Secretariat on implementation of safeguards in Member States have to be dealt with maximum vigilance as far as protection of confidentiality is concerned. You are well aware of the leakage of confidential information, provided to the Agency particularly during and after inspections, to media although we and other Member States were assured by Your Excellency of serious measures to remedy the regretful situation. A simple updated example is my confidential letter to you informing on the agreement of H.E. AliAkbar Salehi the President of the Atomic Energy Organization of Iran in granting inspectors access to heavy water reactor (IR-40); by the same token the agreement on improvement of Safeguards in Natanz enrichment, after we were convinced technically that it was helpful to the Agency's performance and duty in accordance with NPT Comprehensive Safeguards. For reasons which you are aware of it was agreed to keep the confidentiality until the missions are accomplished and your report is out. Regretfully, this issue leaked and the media were soon informed and we were faced with an ambush of questions.
5. Your report on Govatom which is supposed to be restricted only to Member States was almost immediately available to all media! Regretfully, the unprecedented reporting of technical details about Iran's nuclear activities has always created confusion and misunderstanding for the public, thus jeopardizing the constructive environment. Needless to say that release of such detailed confidential technical information about scientific sensitive projects, coming to the Agency's knowledge, is not in line of policy of protection of commercial propriety and confidentiality of Member States.
6. The reflection of the report to the public clearly shows that the unexpected negative nuance as a result of additional repetitive paragraphs on Alleged Studies has totally overshadowed and undermined the above mentioned positive steps taken by my Government since last report in response to your personal request to the newly appointed President of the Atomic Energy Organization of Iran.
7. One other concern is the technical briefing on Safeguards implementation in Iran by your Safeguards Department prior to the meeting of the Board of Governors, where materials far beyond report have been during briefing on 1st September 2009 presented. Reflection of only one side of the coin, by showing again the forged material previously received thoroughly in Iran under the pretext of refreshing memories of participants, poisoned the environment and undermined the recent cooperative developments which you and I had tried hard to build since last session. On our part, in the said briefing, I could have reflected in detail the confidential discussion in Iran, but I refrained from doing so in order to prevent confrontation with the Secretariat, thus disappointing those few countries wished to witness such event. However, you are highly expected not to let such event to reoccur.

Let's have a look at the positive elements in your report showing full commitment of my country to its obligations under Comprehensive Safeguards Agreement:

- a) The Agency continues to verify the non-diversion of declared nuclear material in Iran;
- b) Iran has cooperated with the Agency in improving safeguards measures at FEP (Natanz Enrichment Facility);
- c) Iran has granted access to the IR-40 (Heavy Water Research Reactor) for purposes of design information verification;
- d) Iran and the Agency have agreed on improvements regarding the provision of accounting and operating records;
- e) Iran and the Agency have also agreed on the requirements for timely access for unannounced inspections;
- f) The Agency confirmed that both plants of FEP and PFEP have been operating as declared (i.e. less than 5.0% U-235 enrichment);
- g) The Agency has successfully conducted three unannounced inspections since the last report. A total of 29 unannounced inspections have been conducted at FEP (Natanz Enrichment Facility) since March 2007;
- h) The nuclear material at PFEP, as well as the cascade area and the feed and withdrawal stations, remain under Agency containment and surveillance;
- i) The Agency conducted design information verification at UCF. The Agency was able to confirm that the facility conforms to the design information provided by Iran;
- j) The Agency has concluded that the inventory of nuclear material at UCF as declared by Iran is consistent with those results, within the measurement uncertainties normally associated with conversion plants of similar throughput;
- k) That there have been no indications of ongoing reprocessing related activities;
- l) The Agency installed a containment and surveillance system at the Bushehr Nuclear Power Plant on 22–25 August 2009.

Therefore, the Islamic Republic of Iran is fully committed to its obligation under its Comprehensive Safeguards Agreement.

Now let's have a look at the negative parts of your report:

- a) Iran has not, however, implemented the modified text of its Subsidiary Arrangements General Part, Code 3.1, on the early provision of design information.
- b) Iran has not suspended its enrichment related activities or its work on heavy water related projects as required by the Security Council.

- c) Contrary to the requests of the Board of Governors and the Security Council, Iran has not implemented the Additional Protocol.
- d) Nor cooperated with the Agency in connection with the remaining issues of concern which need to be clarified to exclude the possibility of military dimensions to Iran's nuclear programme. Regrettably, the Agency has not been able to engage Iran in any substantive discussions about these outstanding issues for over a year.

Clarification on the above mentioned points:

- a) Additional Protocol is not a legally binding instrument and as you have reported, about 80 countries do not implement the Additional Protocol. Requesting Iran to ratify or implement Additional Protocol, being a non-legally binding instrument, is in contravention with international law and the sovereign decision of any Member State. Therefore suspension of implementation of the Additional Protocol does not constitute violation of its NPT Safeguards Agreement (INFCIRC/214) Although the Islamic Republic of Iran voluntarily implemented the Additional Protocol for more than two and a half years, a few countries in an opposite direction to this and other voluntary measures carried out by the Islamic Republic of Iran, conveyed illegally Iran's nuclear issue to the United Nations Security Council. Afterwards, Iran's voluntary measures were suspended based on the law adopted by the Iranian Parliament. Therefore Iran should not be blamed for, but those countries which conveyed the issue to the UN Security Council instead.
- b) Iran did agree to implement the modified text of its Subsidiary Arrangements General Part, Code 3.1 after an appeal by you to then the President of Iran in 2003. However, as explained above, this measure was also suspended pursuant to the decision by parliament. However Iran is still implementing the code 3.1 of its Subsidiary Arrangement agreed in February 1976.
- c) According to the Work Plan agreed between Iran and the Agency on 21 August 2007 (INFCIRC/711), the Alleged Studies have been dealt with fully by Iran and the item in the Work Plan is concluded. The expectation of another round of discussion as reflected in your report is absolutely in contravention of the spirit and the letter of such an agreement which both are committed to. I recall the text as the outcome of fruitful and intensive negotiations by three top officials in charge of Safeguards, Legal and Policy Making Organs of the Agency. It is highly expected that the Agency respects its agreement with Member States, otherwise the mutual trust and confidence which is essential for the sustainable cooperation shall be put in jeopardy.

Let's have a short glance at the Alleged Studies:

- a) You will recall that pursuant to the negotiations between Your Excellency and the then Secretary of Supreme National Security Council of Iran in 2007, the Islamic Republic of Iran took an important initiative in July 2007 to resolve all outstanding issues and remove any

ambiguity concerning the nature of its peaceful nuclear activities in the past and present. It should be emphasized that the main objective of the subsequent Work Plan that was agreed between Iran and the Agency on 21 August 2007 (INFCIRC/711), was to resolve, in a step by step manner, all outstanding issues once and for all and to prevent the endless process from being dragged any further.

- b) On the basis of the Work Plan, the Agency provided the Islamic Republic of Iran with a list of six outstanding issues as reflected in part II of INFCIRC/711. The six outstanding issues were: 1) Plutonium Experiments, 2) P1-P2 Centrifuges, 3) Source of Contamination in an equipment of a technical university, 4) Uranium Metal Document, 5) Polonium 210 and 6) Gachine Mine.
- c) It was never the understanding of Iran and IAEA to categorize the so-called "Alleged Studies" summarily referred to in part III of INFCIRC/711 as an outstanding issue, otherwise the parties should have addressed it in part II of INFCIRC/711. One has to bear in mind the fact that the issues such high explosives and re-entry missile are outside the domain of the statutory mandate.

Moreover, if the so-called Alleged Studies were an outstanding issue, Iran and IAEA should have developed and agreed on a detailed modality for dealing with it as they did with respect to the six outstanding issues addressed in part II of INFCIRC/711. As a result, Iran and IAEA decided to make a short reference to the Alleged Studies in part III of INFCIRC/711 and to agree on a different approach for addressing it as follows:

"Iran reiterated that it considers the following Alleged Studies as politically motivated and baseless allegations. The Agency will however provide Iran with access to the documentation it has in its possession ... As a sign of good will and cooperation with the Agency, upon receiving all related documents, Iran will review and inform the Agency of its assessment." (Emphasis supplied).

- d) According to the above understanding, the Agency was required to submit all documentation to Iran and then Iran was only expected to "inform the Agency of its assessment". No visit, meeting, personal interview, swipe sampling were foreseen for addressing this matter. Notwithstanding the above and based on good faith and in a spirit of cooperation, Iran went beyond the above understanding by agreeing to hold discussions with the IAEA, provide necessary supporting documents and inform the Agency of its assessment. Meanwhile, by refusing to submit all documentation to Iran concerning the so-called Alleged Studies, IAEA did not fulfill its obligation under part III of INFCIRC/711.
- e) In your reports of November 2007 and February 2008, Your Excellency explicitly stated that all six outstanding issues had been resolved and the Islamic Republic of Iran had responded to all questions about the outstanding issues in accordance with the Work Plan. Following the successful implementation of the Work Plan which led to the resolution of all six outstanding issues, the Government of the United States being dissatisfied about the results, began a political campaign on a part of the Work Plan entitled the Alleged Studies. Therefore, by interfering in the work of the IAEA and exerting various political pressures the

Government of the United States attempted to spoil the cooperative spirit between the Islamic Republic of Iran and the IAEA.

- f) In spite of the fact that the so called Alleged Studies documents had not been delivered to Iran, the Islamic Republic of Iran carefully examined all the materials which have been prepared by US Government for power point presentations by the Agency, and informed the Agency of its assessment. In this context I recall the following important points:
- i. The Agency has not delivered to Iran any official and authenticated document which contained documentary evidence related to Iran with regard to the Alleged Studies.
 - ii. The Government of the United States has not handed over original documents to the Agency since it does not in fact have any authenticated document and all it has are forged documents. The Agency didn't deliver any original documents to Iran and none of the documents and materials that were shown to Iran have authenticity and all proved to be fabricated, baseless allegations and false attributions to Iran.
 - iii. How can one make allegations against a country without provision of original documents with authenticity and ask the country concerned to prove its innocence or ask it to provide substantial explanations?
 - iv. The Agency has explicitly expressed in a written document dated 13 May 2008 that: "... no document establishing the administrative interconnections between "Green Salt" and the other remaining subjects on Alleged Studies, namely "Highly Explosive Testing" and "Re-entry Vehicle", have been delivered or presented to Iran by the Agency". This written document proves that in fact the documents related to the Alleged Studies lack any internal consistency and coherence in this regard. It is regrettable that this explicit fact expressed by the Agency has never been reflected in the DG reports.
- g) Taking into account the above-mentioned facts, and that no original document exists on the Alleged Studies, and there is no valid and documentary evidence purporting to show any linkage between such fabricated allegations and Iran, and no use of any nuclear material in connection to the Alleged Studies (because they do not exist in reality), also bearing in mind the fact that Iran has fulfilled its obligation to provide information to the Agency, and its assessment, and the fact that Your Excellency have already indicated in his reports in June, September and November 2008 that the Agency has no information on the actual design or manufacture by Iran of nuclear material components of a nuclear weapon or of certain other key components, such as initiators, or on related nuclear physics studies, therefore this subject must be closed.
- h) If it was intended to raise other issues in addition to the Alleged Studies (Green Salt, Re-entry Missile, High Explosive Test) such as possible military dimension, since all outstanding issues have been incorporated in the exhausted list prepared by the IAEA during the negotiations, then it should have been raised by the Agency in the course of the negotiations on the Work

Plan. One can clearly notice that no issue and item entitled "possible military dimension" exists in the modalities.

- i) According to the recent report of GOV/2009/55, the Agency expressed that the authenticity of the documentation that forms the basis of the Alleged Studies cannot be confirmed. This proved the assessment of the Islamic Republic of Iran that the Alleged Studies are politically motivated and baseless allegations.
- j) On several occasions you have emphasized that the Agency is not intending to enter into the domain of the national security of Member States. Surprisingly, in this report you have reflected the unjustified previous request by your staff in Tehran, discussing with Iranian military staff the issue of missiles and explosives! This, undoubtedly, is interference in confidential conventional military activities of a Member State, related to its national security, thus the request of your staff is contrary to your declared position;
- k) The first paragraph of chapter IV of the Work Plan reads: *"These modalities cover all remaining issues and the Agency confirmed that there are no other remaining issues and ambiguities regarding Iran's past nuclear program and activities."*
- l) In accordance to the first paragraph of chapter IV of the Work Plan which reads that "These modalities cover all remaining issues and the Agency confirmed that there are no other remaining issues and ambiguities regarding Iran's past nuclear program and activities", introducing a new wording in paragraph 18 of the report (GOV/2009/55) reading that "there remain a number of outstanding issues" or in paragraph 28 of the report which reads "there remain issues" not only contrary to the Work Plan but also is in contradiction to the DG report (GOV/2008/4, Para 54).
- m) Paragraph 5 of Chapter IV of the Work Plan reads: "The Agency and Iran agreed that after the implementation of the above Work Plan and the agreed modalities for resolving the outstanding issues, the implementation of safeguards in Iran will be conducted in a routine manner."
- n) In Paragraph 3, chapter IV of the Work Plan, the Agency has acknowledged that "the Agency's delegation is of the view that the agreement on the above issues shall further promote the efficiency of the implementation of safeguards in Iran and its ability to conclude the exclusive peaceful nature of Iran's nuclear activities". On this basis, while the Work Plan has been implemented, the Agency is obliged to confirm the exclusive peaceful nature of Iran's nuclear activities.
- o) The Islamic Republic of Iran and the Agency have fully implemented the tasks agreed upon in the Work Plan; in doing so, Iran has taken voluntary steps beyond its legal obligation under Comprehensive Safeguards Agreement.

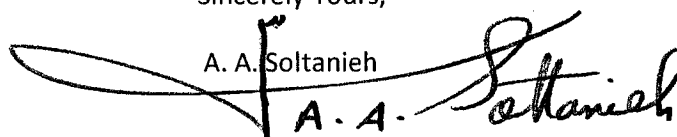
Considering the above and your recent report (GOV/2009/55) that confirmed that Iran has completed its obligation on the Alleged Studies by informing the Agency its assessment, and very

positive developments and the joint constructive cooperation between Iran and the Agency, you are hereby highly expected to announce that the safeguards implementation in Iran shall be conducted in a routine manner in accordance with the last paragraph of the work Plan (INFCIRC/711). I assure you that in doing so, as a legacy, you shall open a new chapter for mutual confidence building and trust leading to enhanced cooperation where we would then be in a better position to answer questions, if any, like other Member States, in accordance with our Safeguards Agreement.

Please accept, Sir, the assurance of my highest considerations.

Sincerely Yours,

A. A. Soltanieh

A handwritten signature in black ink, appearing to read 'A. A. Soltanieh', written over a printed name. The signature is fluid and cursive, with a large initial 'S'.

Ambassador, Resident Representative

H.E. Dr. Mohamed ElBaradei
Director General of the IAEA