

Information Circular

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Communication dated 8 December 2011 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

The Secretariat has received a communication dated 8 December 2011 from the Permanent Mission of the Islamic Republic of Iran to the Agency enclosing an explanatory note, dated 18 November 2011, 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 GOV/2011/65 (8 November 2011).

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)*

تعلق

No. 220/2011

The Permanent Mission of Islamic Republic of Iran to the International Atomic Energy Agency presents its compliments to the Agency's Secretariat and has the honor to request the latter to circulate Explanatory Note by the Permanent Mission of the Islamic Republic of Iran to the IAEA Director General Report on the Implementation of Safeguards in the Islamic Republic of Iran (GOV/2011/65 dated 8 November 2011) 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, 8 December, 2011



**Explanatory Note by the
Permanent Mission of the Islamic Republic of Iran to the IAEA
on the
Director General's Report on
Implementation of Safeguards in the Islamic Republic of Iran
(GOV/2011/65 dated 8 November 2011)**

18 November 2011

The following are some comments on paragraphs of the Director General's report GOV/2011/65, dated 8 November 2011:

A- General Observations

1- Paragraph 27 of the Safeguards Resolution adopted by the General Conference GC/53/RES (14) as well as GC/54/RES (11), mandate the Agency to prepare technically objective and factually correct reports with appropriate references to relevant provisions of the Safeguards Agreement. Regrettably, this statutory requirement has continuously been ignored and has not been observed in this and in the previous reports. The Agency should not arbitrary step beyond its statutory and legal mandate in preparing its reports by failing to base its assessments and comments on concrete obligations of a State.

2- More importantly, the IAEA is an independent inter-governmental organization, not a United Nations programme or fund. Therefore, the Agency's mandate is to carry out its activities in accordance with its rights and obligations under the Statute and the Safeguards Agreements. The Agency should therefore refrain from taking instructions from anonymous States and sources with vested interests or allow unauthorized parties to interfere with its mandates. There are no provisions in the Safeguards Agreements and IAEA Statute which may authorize the United Nations Security Council (UNSC) to take over the role of the IAEA in implementing the Safeguards Agreements, impose new requirements, or modify the obligations of the parties to the Safeguards Agreements; Nor does the Agency have the right or authority to impose ultra vires demands on Iran by relying upon the UNSC resolutions.

3- The Islamic Republic of Iran has already made it clear, based on the legal provisions such as those of the Agency's Statute and the Safeguards Agreement as to why the UNSC resolutions against Iran are illegal and unjustified. Iran's peaceful nuclear activities have unlawfully been put on the agenda of the UNSC and the Council has taken a wrong approach by adopting its politically-motivated, illegal and unacceptable resolutions against Iran. Therefore, any request by the Agency stemming from those resolutions is not legitimate and not acceptable. The unlawfulness of the UNSC and the Board of Governors (BOG)'s resolutions against Iran are discussed in sections E and F below.

4- In the light of the above, we consider the DG report (GOV/2011/65 dated 8 November 2011) as unprofessional and absolutely unfair, illegal and politicized.

5- Although the report once again reconfirmed that *"the Agency continues to verify the non-diversion of declared nuclear material at the nuclear facilities and LOFs declared by Iran under its Safeguards Agreement"*, it keeps using *"unusual"* language with regard to the Safeguards conclusions, since the Agency has to simply confirm that all declared nuclear material is accounted for and therefore *"declared nuclear material in Iran remained in peaceful activities"*, as already has been reported by the Agency such as in 2010 Safeguards Implementation Report (SIR).

6- The Non-Aligned Movement in its several statements to the Board of Governors has stated that *"NAM emphasizes the fundamental distinction between the legal obligations of states in accordance with their respective Safeguards Agreements, as opposed to any confidence building measures undertaken voluntarily and that do not constitute a legal safeguards obligation."* and also *"NAM takes note that the latest report of the Director General includes many references to events that transpired prior to the previous report contained in document GOV/2009/74 dated 16 November 2009, and contrary to the expectation of NAM, does not mention the responses provided by Iran to the Agency on several issues."*, NAM has also stated that *"taking into account the recent developments mentioned above as well as previous Director General's reports on the implementation of the Work Plan on "Understanding of the Islamic Republic of Iran and the Agency on the Modalities of resolution of the Outstanding Issues" (INFCIRC/711), NAM still looks forward to the safeguards implementation in Iran being conducted in a routine manner"*; However, the Director General in preparing his report has unfortunately not heeded these important statements which reflect the concerns of a large number of the United Nations Member States.

7- 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 a lot of confidential technical details that should not have been published. The DG by including detailed information in its reports such as the number of installed and/or operating centrifuges, amount of nuclear material fed and/or produced, etc., has demonstrated its inability to fulfill its commitments on confidentiality measures. It comes as no surprise that almost at the same time that the DG report is released, the ISIS website publishes the report as well as sort of fictitious calculations as its evaluation on the detailed information of the report. This fact leaves no doubt that ISIS has real time access to the safeguards confidential information thanks to DG generosity in disclosing confidential information to unauthorized circles before even its less privileged Member States have a chance to examine such reports. We strongly object to this unprofessional and wrong pattern of non-compliance with the legal framework of the IAEA. This violation must be stopped.

8- Regrettably the DG, relying on the forged, fabricated and false information provided by western intelligence services and without any authenticity verification reported them as credible information paving the way to put pressure on Iran as a party to the Safeguards Agreement.

B- Implementation of the Safeguards Agreement in Iran's Nuclear Facilities

9- The report GOV/2011/65 shows, that implementation of the Safeguards in the I.R. of Iran is in accordance with its Safeguards Agreement (INFCIRC/214) without any failure, inconsistency or ambiguity, as reflected in different parts of the report, such as following:

- i. Paragraph 6 reads as follows: *"Iran has declared to the Agency 15 nuclear facilities and nine locations outside facilities"* and *"... the Agency continues to implement safeguards at these facilities and LOFs."*
- ii. All Iran's nuclear facilities are under Agency's Safeguards (paragraph 6), specifically enrichment facilities (paragraphs 8-26), heavy water research reactor (paragraphs 29-30), Tehran Research Reactor (TRR) (paragraph 28), Radioisotope Production Facility (paragraph 28), Uranium Conversion Facility (UCF) and Fuel Manufacturing Plant (paragraphs 32-37), Bushehr Nuclear Power Plant (paragraph 51).
- iii. The Agency has been able to take samples from nuclear facilities to verify Iran's declarations, specifically of Natanz Fuel Enrichment Plant as read in paragraph 12: *"Based on the results of the analysis of environmental samples taken at FEP since February 2007 and other verification activities, the Agency has concluded that the facility has operated as declared by Iran"*, Natanz Pilot Fuel Enrichment Plant as read in paragraph 19: *"Based on the results of the analysis of the environmental samples taken at PFEP and other verification activities, the Agency has concluded that the facility has operated as declared by Iran in the DIQ"*, and Fordow Fuel Enrichment Plant as read in paragraph 26: *"The results of the analysis of the environmental samples taken at FFEP up to 27 April 2011 did not indicate the presence of enriched uranium"*, that have been conclusive.

C- Design Information (Modified Code 3.1 of Subsidiary Arrangements)

10- Iran was voluntarily implementing the modified code 3.1 of the Subsidiary Arrangements since 2003, but it suspended its implementation pursuant to the illegal UNSC resolutions against Iran's peaceful nuclear activities. However, Iran is currently implementing code 3.1 of its Subsidiary Arrangements.

11- In respect of IR-40 reactor at Arak, Iran voluntarily provided access to the facility for the Agency to carry out Design Information Verifications (paragraph 30).

12- With regard to the design of a reactor similar to TRR as well as any new facility (paragraph 46), Iran will act in accordance with its Safeguards Agreement and will inform and provide the relevant Design Information Questionnaire (DIQ) under the provision foreseen in its code 3.1.

D- Additional Protocol

13- The Additional Protocol is not a legally binding instrument and is voluntary in nature. Hence, many Member States including Iran are not implementing this voluntary protocol. However, it should be reminded that Iran implemented AP for more than 2.5 years voluntarily as a confidence building measure.

14- Therefore, Iran, as sovereign State, has no obligation to implement the Additional Protocol. The statement reflected in paragraph 52 of the DG report to the effect that *"Iran is not providing necessary cooperation, including by not implementing its Additional Protocol"*

has no legal basis and is beyond the DG's statutory mandate. The Agency is obliged to verify the compliance of Member States on the basis of the Statute and the Safeguards Agreements.

15- Heavy water product is a non-nuclear material that is not covered by the Comprehensive Safeguards Agreements (CSA). The Agency's statement as reflected in paragraph 31 of the report: "*Iran has not provided the Agency access to the heavy water stored at the Uranium Conversion Facility (UCF) in order to take samples*" is not a justifiable demand and beyond Iran's Safeguards Agreement (INFCIRC/214).

16- Basically, it is not acceptable that a voluntary instrument be turned into a legal obligation. This basic concept regarding Additional Protocol has been affirmed in the 2010 NPT Review Conference (NPT/CONF.2010/50 (Vol. I) as well as the Agency General Conference (GC (54)/RES/11).

17- The misrepresentation of Iran's commitments with respect to the Additional Protocol or extracting legally binding obligations from the illegal resolutions of the UNSC, apart from unauthorized interference in the application of Iran's Safeguards Agreement are all unrealistic and non-binding to the I.R. of Iran; and any action requested by the Board of Governors in this regard would be unconstitutional, politically motivated and illegal. It should be emphasized that Iran has already fulfilled its safeguards obligations completely and continues to do so.

E- Illegal resolutions of the IAEA Board of Governors regarding Iranian peaceful nuclear program

18- The Islamic Republic of Iran has already made it clear, that based on the legal provisions such as those contained in the Agency's Statute and the Safeguards Agreement, the Board of Governors' resolutions against Iran are *ultra vires*, illegal and unjustified. The issue of Iran's peaceful nuclear program has unlawfully been conveyed to the UNSC and the Council has taken a wrong approach by adopting some politically-motivated, illegal and unjust resolutions against Iran. Therefore, any request by the Agency stemming from those resolutions is not legitimate and not acceptable and has no legal standing.

19- Since the said Security Council Resolutions are not the results of sound legal proceedings and have been issued in contravention of the UN Charter, they are by no means legally-binding. Referring Iran's case to the Council was in violation of Article XII.C of the IAEA Statute, consequently, the UNSC resolutions were also issued in contrast with the Purposes and Principles of the Charter (breach of Article 24 of the UN Charter). Moreover, even if its issuance might be deemed as a legal practice in a way, reference cannot be made to Article 41 of chapter VII, and it is not legally-binding either; because international peace and security cannot be threatened by a peaceful and transparent nuclear program. In fact, the Agency has become more Catholic than the Pope by seeking to implement the provisions of illegal resolutions of the UNSC, instead of focusing its attention on its core mandate and the specific provisions of the Safeguards Agreement with Iran. The Director General of the IAEA would have been better off to entrust the task of implementing the UNSC resolutions to the drafters of such resolutions, that is, the possessors of nuclear weapons; rather, he should pursue his own neglected responsibilities incarnated in the Statute related to the peaceful utilization of nuclear energy and reiterated in Article 4 of the NPT, that is, the peaceful utilization of nuclear energy and the relevant technology transfer, as well as elimination of double standards and parallel groups. The Director General ought to consider why he has not yet fulfilled the most primary duty of the DG in order to protect confidential information provided by Member States to the IAEA inspectors, or report on political obstacles to

materialize nuclear fuel supply upon request of Member States without discrimination. The Director General should focus on his own functions and priorities and not be distracted by decisions of other fora.

20- According to the Agency's Agreement with the United Nations (INFCIRC/11), paragraph 2 of Article III "*The Agency shall report to the Security Council and the General Assembly any case of noncompliance within the meaning of Article XII, paragraph C, of its Statute.*" The requirements of Article XII, paragraph C, of the Statute have never been met in the case of the implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran. Therefore, the involvement of the Security Council in the Iranian peaceful nuclear program is in full contravention with the organizational, statutory and safeguards requirements governing the IAEA practices and procedures. Indeed, the substantive and procedural legal requirements that should be met before putting a nuclear file on the agenda of the Security Council have completely been skipped.

Referring a country's nuclear issue to the Security Council is only possible under following exceptional circumstances as set out in Article XII, paragraph C of the Statute:

- a) Determination of non-compliance (diversion) according to paragraph C of Article XII of the IAEA Statute is the essential pre-condition for referring an issue to the Security Council, which is entrusted to the IAEA inspectors, who should report it to the Board of Governors through the IAEA's Director General. There has never been any reference in the Agency's reports to any "*non-compliance*" by Iran or any diversion in its peaceful nuclear activities. More importantly, the IAEA Director General has repeatedly stressed that there has been no diversion of the declared nuclear material and activities in the Islamic Republic of Iran. This conclusion has been reiterated in every report of the IAEA Director General.
- b) Furthermore, according to Article 19 of the Safeguards Agreement between Iran and the IAEA, dated 15 May 1974 (INFCIRC/214), any referral of the issue by the Agency to the Security Council in accordance with Paragraph C of Article XII of the Statute of the IAEA, could only be possible "*if the Board, upon examination of relevant information reported to it by the Director General, finds that the Agency is not able to verify that there has been no diversion of nuclear material required to be safeguarded under this Agreement, to nuclear weapons or other nuclear explosive devices*". It is worth mentioning in this regard that the former Director General has constantly stated in all his reports that the Agency has been able to verify that the declared nuclear material and activities in Iran have not been diverted towards military purposes, and that they have remained absolutely under peaceful use and therefore the Board of Governors conveyance of Iran's nuclear file to UNSC was in full contravention with the Statute of the IAEA. This fact shows how certain States with vested interests could abuse their prerogatives by manipulating the IAEA flawed decision-making system to their advantages.
- c) Also the nuclear activities of a country may be reported by the IAEA to the Council in cases where there is a threat against international peace and security and, consequently, according to paragraph b(4), Article III of the IAEA's Statute, the Agency would notify the Security Council in this regard. It is noteworthy that contrary to the baseless allegations made by those few States while not only none of the IAEA Director General's reports have ever described Iran's nuclear activities as "*a threat to international peace and security*" but also they have expressly declared that such activities have been peaceful, and that there are no diversions of nuclear material and activities in Iran.

Based on the above-mentioned reasons, there is no justification for the involvement of the Security Council in the work of the Agency. The Agency should continue its responsibility in the implementation of the Safeguards Agreement with Iran in strict observance of the provisions foreseen in the Safeguards Agreement with Iran (INFCIRC/214).

F- Contradiction of the UN Security Council & IAEA Board of Governors resolutions with the United Nations Charter and the international law

21- Besides the illegal non-compliance reporting by the IAEA Board of Governors and conveyance of Iran's peaceful nuclear program to the United Nations Security Council, the adoption of all UNSC resolutions against Iran's peaceful nuclear program has been in contradiction with the "Charter of the United Nations" and in violation of international law.

22- The Security Council, as a UN organ entrusted with the maintenance of international peace and security, is bound by the UN Charter and other legal principles. The Council shall observe all international norms, in particular the UN Charter and the peremptory norms of international law, in the process of its decision making and in its taking actions. Needless to say that any measure adopted in contradiction to such rules and principles will be void of any legally binding effects¹.

23- In accordance with Article 25 of the Charter, Member States of the United Nations, including the Islamic Republic of Iran, "*agree to accept and carry out the decisions of the Security Council in accordance with the present Charter*". However, pursuant to paragraph 2 of Article 24 of the Charter, the Security Council's decisions shall be "*in accordance with the Purposes and Principles of the United Nations*", a requirement which has been ignored in respect of the UNSC's resolutions against the Islamic Republic of Iran. Therefore, these resolutions have no moral or legal authority behind them and their implementation is not plausible for the Islamic Republic of Iran.

24- Based on the IAEA Statute, the Agency's Board of Governors decisions regarding the Islamic Republic of Iran's peaceful nuclear program suffer from the same flaws. Article III.B.1 of the Agency Statute links the functions of the IAEA to the UN through Article III.B.1. It reads as: "*In carrying out its functions, the Agency shall: 1. Conduct its activities in accordance with the purposes and principles of the United Nations to promote peace and international co-operation, and in conformity with policies of the United Nations furthering the establishment of safeguarded worldwide disarmament and in conformity with any international agreements entered into pursuant to such policies;*".

25- The following cases are some instances of violating the preamble as well as *Purposes and Principles* of the UN Charter by the UN Security Council & IAEA Board of Governors:

- a) According to the first paragraph of the Charter's preamble, the Security Council shall act "*to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom*".

¹ As the International Criminal Tribunal for former Yugoslavia (ICTY) has stated in one of its judgments "in any case, neither the text nor the spirit of the Charter conceives the Security Council as *legibus solutus* (unbound by law)." Likewise, as the International Court of Justice has held in its 1971 advisory opinion, the Member States are required to comply with Security Council decisions only if they are in accordance with the United Nations Charter.

- b) Requiring suspension of peaceful nuclear activities, which are under the Agency's full surveillance, without any effect on the Agency verification activities:
- i. will only hinder improvements of public "*better standards of life*", as well as "*hampering the economic and technological development of Iran*" (contrary to the Safeguards Agreement, Article 4 (a));
 - ii. will be contrary to the Agency's obligation under Article 4 (b) of the Safeguards Agreement to "*avoid undue interference in Iran's peaceful nuclear activities, and in particular in the operation of facilities*";
 - iii. will be in contradiction "*to establish conditions under which justice and respect ... can be maintained ...*" and "*principles of justice*". In fact, there is not any report by the Agency on the diversion of nuclear material and activities or any determination of "*threat to the peace, breach of the peace, or act of aggression*" (according to Article 39 of the Charter) due to Iran's nuclear activities, except some vague, baseless and unverified allegations in the so called "alleged studies" which can not substantiate as a means to undermine the "*inalienable right*" of a Member State under Article 4 of the NPT.
- c) The Security Council, in resolution 1803 (2008), inter alia, reaffirmed Iran's obligation to "*without further delay, take the steps required by the Board of Governors in its resolution GOV/2006/14, which are essential to build confidence in the exclusively peaceful purpose of its nuclear programme and to resolve outstanding questions*", which "*extend beyond the formal requirements of Iran's Safeguards Agreement and Additional Protocol*" (GOV/2008/38).
- d) It is worth mentioning that reporting certain matters to the Security Council is not to enable the Security Council to "*enforce or interpret*" Iran's Safeguards Agreement. The IAEA is not a subsidiary or other affiliate of the United Nations. Though the two bodies cooperate in many ways they are entirely separate and neither has a right to exercise any authority granted to the other. If Iran breaches its Safeguards Agreement, the IAEA may terminate assistance, or demand the return of materials and equipment, being provided to Iran under the IAEA Statute. If its violations persist, Iran may even be expelled from membership in the IAEA. These are the remedies available for any Member State's violation of its Safeguards Agreement. Only the IAEA and the "*arbitration panel*", foreseen in Article 22 of the Safeguards Agreement, in the case of a dispute, have the authority to "*enforce*" or "*interpret*" a Member State's Safeguards Agreement.
- e) Requiring adoption or implementation of the Additional Protocol, as "*the steps required by the Board of Governors*", while being a "voluntary and not legally binding" instrument, as well as suspension of peaceful nuclear activities, is in contravention of international norms, the Convention on the Law of Treaties, and Iran's Safeguards Agreement, therefore, in contradiction "*to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained*".
- f) More generally, requiring suspension of peaceful nuclear activities will contradict to the "right to development", "right to natural resources" and "right to self-determination". Such rights are among the fundamental rights of nations and their breach entails international responsibility for those who have violated them. Any action by States or the international organizations to limit such rights constitutes a violation of the fundamental principles of international law including, inter alia, non-

interference in internal affairs of other States. In the Final Document of the Sixth NPT Review Conference, all State Parties to the Treaty confirmed “that each country’s choices and decisions in the field of peaceful uses of nuclear energy should be respected without jeopardizing its policies or international cooperation agreements and arrangements for peaceful uses of nuclear energy and its fuel-cycle policies”. This was reaffirmed in the 2010 NPT Review Conference Final Document which was adopted by all States Parties to the Treaty. Therefore, the Security Council’s actions against Iran are in clear contradiction with the NPT principles and the Agency’s Statute.

- g) According to paragraph 1 of Article 1 (*the Purposes* of the Charter), for the purpose of “*adjustment or settlement of international disputes or situations which might lead to a breach of the peace*”, the Security Council shall take measures of “*peaceful means, and in conformity with the principles of justice and international law*”.
- h) The Security Council has never determined Iran’s nuclear program as a “*threat to the peace, breach of the peace, or act of Aggression*” (according to Article 39 of the Charter), nevertheless, it has adopted some resolutions against the Islamic Republic of Iran under Chapter VII of the United Nations Charter. The Security Council, before resorting to the measures stipulated in Articles 40 and 41 of the UN Charter must have exhausted all required procedures under Chapter VI of the UN Charter. While the outstanding issues defined by the Agency have been settled, “alleged studies” accusations based on forged data lacking authenticated information to be substantiated, and all Iran’s nuclear activities being under Agency Safeguards, regrettably, the Security Council has resorted to an incremental hostile approach with regard to Iran’s peaceful nuclear activities, in contrast to stipulated “*peaceful means with the principles of justice and international law*”. It is indeed ironic that if the Islamic Republic of Iran was not a party to the NPT, similar to some States in the region, it would benefit more rights and assumed fewer obligations. Moreover, unjust acts of the UN Security Council have sent a very negative message to the world: that being a party to NPT is futile and its universalization is a far-reaching objective.
- i) In accordance with paragraph 3 of Article 1 of the Charter (*the Purposes*), the Security Council resolutions against the Islamic Republic of Iran are depart from the UN Purposes regarding “*international co-operation in solving international problems of an economic, social, cultural, or humanitarian character*”. Developments of peaceful nuclear technologies to meet national needs in the field of energy and medicine, which are regarded as vital needs of people in every country, are not disputable and each issue in this regard should be resolved through collective and cooperative manners instead of resorting to embargo and threat.
- j) Contrary to paragraph 1 of Article 2 of the Charter, “*the principle of the sovereign equality of all its Members*” regarding the Islamic Republic of Iran has not been observed, as mentioned above.
- k) Pursuant to paragraph 4 of Article 2 of the Charter, “*All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations*”. Threats to use force against Iran’s nuclear facilities are frequently expressed, including by some permanent members of the Security Council, while the Council has proven to be unable or unwilling to restrain such declarations and compel them to “*refrain in their international relations from the threat*”. Therefore, it can be reasonably inferred that resolutions drafted in

contravention of UN Charter Principles, indeed are a translation of those threats against Iran and pretext to resorting to use of force which are illegal and unacceptable.

G- Possible Military Dimensions

26- Detailed history of the agreed Work Plan (INFCIRC/711) between the Agency and the Islamic Republic of Iran has been explained in the previous Iran's explanatory notes to the DG reports with the latest one being INFCIRC/827.

27- On the basis of the Work Plan, there were only six outstanding issues that all have been resolved as the former Director General reported (GOV/2007/58 and GOV/2008/4). Based on the Work Plan, while the so called "*Alleged Studies*" was never considered as an outstanding issue, but it was planned that "*The Agency will however provide Iran with access to the documentation it has*", and then "*upon receiving all related documents, Iran will review and inform the Agency of its assessment*". While the required "*documentation*" has never been delivered to Iran, the Islamic Republic of Iran carefully examined all the informal, nonobjective, and unauthentic material which has been shown, and informed the Agency of its assessment. In this context, the following important points should be recalled:

- 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 whatever it claims to have in possession, are forged documents. The Agency didn't deliver any original document to Iran and none of the documents and material shown to Iran has authenticity and all proved to be fabricated, baseless allegations and false attributions to Iran.
- iii. How the Agency can support or pursue 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? It is one of the actual concerns foreseen by some States during the BOG discussions which led to "*general endorsement*" (as quoted by chairman of GOV/OR meeting 872 in 1995) of measures, so called "Part 1", aimed to strengthen Safeguards. With regard to Part 1 measures, it has been expressed that:
 - "*improving the efficiency of the safeguards system should be pursued on the basis of a presumption of States' innocence and not a presumption that each State was a potential wrongdoer*". In this regard, the Agency has initiated unprecedented and illegal demands on Iran as baseless accusation.
 - "*recourse to data from intelligence sources should be explicitly excluded*", nonetheless the Secretariat explicitly has declared on several occasions that it has received information from the intelligence sources, while it has been proven that they are fabricated and false.
- 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 so called 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.

28- 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's activities, and that the DG reported in paragraph 28 of GOV/2008/15 no use of any nuclear material in connection with 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 and its assessment to the Agency, and the fact that the former DG has 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 for a nuclear weapon or of certain other key components, such as initiators, or on related nuclear physics studies; therefore this subject must be closed.

29- 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 had 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 Work Plan (INFCIRC/711). It is recalled that the first paragraph of chapter IV of the Work Plan reads as: "*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*"; therefore, introducing a new issue under the title of "*possible military dimension*" contradicts the Work Plan.

30- According to paragraph 19 of the DG report in 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.

31- The first paragraph of chapter IV of the Work Plan reads as: "*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.*" It is obvious that all I.R. of Iran's nuclear activities in the past and present have been for peaceful purposes and will be continuously subject to full scope comprehensive safeguards. Therefore, any information contrary to this is a forged, fabricated, false and baseless allegation.

32- Paragraph 5 of Chapter IV of the Work Plan reads as: "*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.*" And also 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.

33- 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 its Comprehensive Safeguards Agreement.

34- Considering the above, and the former DG report in GOV/2009/55, which confirms that Iran has completed its obligation on the Alleged Studies by informing the Agency of its assessment, and also very positive developments and the joint constructive cooperation

between Iran and the Agency, the Agency is 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).

35- Paragraph 54 of the former DG report in GOV/2008/4 regarding the Possible Military Dimension reads as: *“However, it should be noted that the Agency has not detected the use of nuclear material in connection with the alleged studies, nor does it have credible information in this regard.”* The facts that the documents of the Alleged Studies lack authenticity, that no nuclear material was used and that no key components were made as declared by the former Director General, are also missing in this report.

36- According to the Work Plan, the Alleged Studies have been fully dealt with by Iran, thus this item, in the Work Plan, is also being concluded. Any request for another round of substantive discussion, provision of information and access, is absolutely in contravention with both spirit and letter of the negotiated and agreed Work Plan, which both parties undertook to comply with. It should be recalled that the agreed Work Plan is the outcome of fruitful and intensive negotiations by three top officials in charge of Safeguards, Legal and Policymaking Organs of the Agency with Iran and eventually acknowledged by the Board of Governors. Therefore, it is highly expected that the Agency respect its agreement with Member States; otherwise, the mutual trust and confidence which is essential for the sustainable cooperation would be jeopardized.

37- According to the Work Plan, 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, and swipe sampling, were foreseen for addressing this matter. The Government of the United States has not handed over any original document to the Agency, because in fact it has no authenticated documents as the former DG declared. Meanwhile, by refusing to submit all documentation to Iran, concerning the so-called Alleged Studies, the IAEA did not fulfill its obligation under part III of INFCIRC/711. Despite 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, providing necessary supporting documents and informing the Agency of its assessment in a 117-page document which all proved that the allegations have been all fabricated and forged. This is, in fact, reviewing the substance as well as the forms.

38- Following are related reports from the Agency’s team visiting Iran’s military sites including Parchin which clearly shows that Iran has thoroughly cooperated and that the issue has been completed which the DG has intentionally opened again!

- GOV/2005/67, dated 2 September 2005, paragraph 41, *“As described by the DDG-SG in his 1 March 2005 statement to the Board, in January 2005, Iran agreed, as a transparency measure, to permit the Agency to visit a site located at Parchin in order to provide assurance regarding the absence of undeclared nuclear material and activities at that site. Out of the four areas identified by the Agency to be of potential interest, the Agency was permitted to select any one area. The Agency was requested to minimize the number of buildings to be visited in that area, and selected five buildings. The Agency was given free access to those buildings and their surroundings and was allowed to take environmental samples, the results of which did not indicate the presence of nuclear material, nor did the Agency see any relevant dual use equipment or materials in the locations visited.”*
- GOV/2005/67, dated 2 September 2005, paragraph 49, *“Iran has permitted the Agency, as a measure of transparency, to visit defence related sites at Kolehdoz, Lavisan and Parchin. The Agency found no nuclear related activities at Kolehdoz.”*

- GOV/2005/87, dated 18 November 2005, paragraph 16, *“On 1 November 2005, following a meeting held on 30 October 2005 between Mr. Larijani, the Secretary of the Supreme National Security Council of Iran, and the Deputy Director General for Safeguards (DDG-SG), the Agency was given access to the buildings requested within the area of interest at Parchin (see para. 41 of GOV/2005/67), in the course of which environmental samples were taken. The Agency did not observe any unusual activities in the buildings visited. Its final assessment is pending the results of the environmental sample analysis.”*
- GOV/2005/87, dated 18 November 2005, paragraph 21, *“The Agency welcomes the access provided to the Parchin site.”*
- GOV/2006/15 dated 27 February 2006 paragraph 32, *“On 1 November 2005, the Agency was given access to a military site at Parchin where several environmental samples were taken. The Agency did not observe any unusual activities in the buildings visited, and the results of the analysis of environmental samples did not indicate the presence of nuclear material at those locations.”*
- GOV/2006/15 dated 27 February 2006 paragraph 52: *In this regard, Iran has permitted the Agency to visit defense related sites at Kolehduz, Lavisan and Parchin. The Agency did not observe any unusual activities in the buildings visited at Kolehduz and Parchin, and the results of environmental sampling did not indicate the presence of nuclear material at those locations.*

H- Other Remarks

39- It is very unfortunate that the present DG’s approach in its unprofessional reporting on Iran not only has stepped beyond his mandate to the bilateral Safeguards Agreement, but also has deeply ruined the worldwide reputation of the Agency as a technical competent authority. Recently, some media, as general observers, have revealed part of the false information used by the Agency and criticized ironically its immature assessment on allegations against Iran.

40- The DG’s report has focused on some alleged military activities that are not involved in any nuclear material which is obviously out of the purview of Safeguards Agreement, it reads as: “...safeguards is applied on all source or special fissionable material in all peaceful nuclear activities within its territory, 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”.

41- Q: Had Iran any legal obligation to declare the site of Natanz Enrichment Plant before 2003? A: No. Since Natanz Enrichment Plant had not received any nuclear material till 2003 thus Iran was not obliged to declare it considering the fact that since Iran had not signed the modified code 3.1 of the Subsidiary Arrangement of NPT Comprehensive Safeguards till 2003.

42- Q: Has IAEA found any nuclear material and nuclear activities including enrichment in military sites including PARCHIN and LAVIZAN-SHIAN, alleged to be involved in nuclear weapon program, after the Agency did intensive robust inspection including sampling and analysis? A: No. Director General’s Press Statement on Iran on 6 March 2006 said: On transparency I think I mentioned in my report on access to military sites, we have been given access to a number of military sites recently, to Parchin, Lavisan, Shian, to dual use equipment, to interview people; these are beyond the Additional Protocol but they are essential for us to reconstruct the history of the programme. On 15 November 2004 the DG

reported that the Agency was granted to visit the military complex of Lavisian-Shian where the Agency took environmental samples. Finally paragraph 102 of the DG report (GOV/2004/83) said: "The vegetation and soil samples collected from the Lavisian-Shian site have been analyzed and reveal no evidence of nuclear material." More information are in documents GOV/2005/87, 18 Nov. 2005; GOV/2006/15 of 27 February 2006.

43- This illegal, partial, unjustified and politicized report of the IAEA DG (GOV/2011/65) to the November 2011 Board of Governors demonstrates that it contains all the information provided by intelligence services of US and Israel regime and some other western countries which are false, baseless and fabricated. All of this information came out in 12 pages of the DG report's annex that prevails to any open minded reader that it is biased without any value.

44- The DG report which is prepared based on intelligence services information and their supervision, contains internal contradiction that shows that they are fabricated allegations. These intelligence services have resorted to unprofessional fabrication due to rush which have resulted in low level conventional information that does not show any relation with the Islamic Republic of Iran's peaceful nuclear activities.

45- Paragraphs 23 and 24 of the annex of the DG's report have been taken directly from the U.S. Intelligence Community. The report was not factual, but it stated that Iran's nuclear weapon activities had been stopped in 2003. Later, the US found out that by this conclusion there is no justification for further application of pressure on Iran such as illegal resolutions and sanctions. In order to escape from such a contradiction, they produced another report stating that maybe some of these activities have been continued after 2003. This is a clear indication that the allegations are baseless because in order to make a weapon, all the activities need to be continuous and consistent; while in fact there have not been any related activities before and after 2003.

46- The report claimed in paragraph 49 "...that Iran constructed a large explosives containment vessel in which to conduct hydrodynamic experiments. The explosives vessel, or chamber, is said to have been put in place at Parchin in 2000. ... The Agency has obtained commercial satellite images that are consistent with this information." The Agency requested to visit the Parchin military complex in 2005 and although Iran does not have any obligation to provide access to the Agency inspectors to its military sites, but for the sake of proactive cooperation with the Agency, granted access to the Parchin complex twice in 2005 which is reflected in paragraph 50 annex of the report: "...the Agency was permitted by Iran to visit the site twice in 2005". The Agency inspectors have freely selected areas of their interest based on the satellite imageries. One of the locations that they focused on was a building which they claimed to be a location of the explosives chamber. The Agency confirmed in this paragraph that they did not find anything and they requested once more to provide access to this complex several months later when they also took environmental swiipe samples. The results of these inspections were reported by the former DG in paragraph 32 of GOV/2006/15 dated 27 February 2006 which reads as: "On 1 November 2005, the Agency was given access to a military site at Parchin where several environmental samples were taken. The Agency did not observe any unusual activities in the buildings visited, and the results of the analysis of environmental samples did not indicate the presence of nuclear material at those locations." And in paragraph 52 of the said report the Agency concluded that: "The Agency did not observe any unusual activities in the buildings visited at Kolehdoz and Parchin, and the results of environmental sampling did not indicate the presence of nuclear material at those locations."

47- Those documents the Agency has referred to in paragraph 54 are scientific literature that does not have any relation to unconventional activities as the paragraph itself reads as:

"... such studies are commonly used in reactor physics or conventional ordnance research," which is a correct statement. In the same documents, which have been published in the media, the research relating to the generation, measurement and modeling of neutron transport does not have any relation to unconventional activities or nuclear weapons. However, the report continues with a wrong conclusion that "*but also have applications in the development of nuclear explosives*". Such a conclusion is a hypothetical creation by an irresponsible person. It is ridiculous that someone who wishes to perform highly secret activities on nuclear weapons would make it openly published and also provide it to the Agency. These researches clearly show that there was no intention on concealment neither by the researchers nor institutes because they were purely conventional and peaceful.

48- Paragraph 63 of the report related to the so called project 111 which reads as: "*... the activities described as those of project 111 may be relevant to the development of a non-nuclear payload*", although there is no such project called 111 in Iran, but the Agency states that it is in possession of documents of project 111 relating to non-nuclear payload but although it does not have any documents related to nuclear payload, while without providing any substantial evidence, strangely concludes in the last part of paragraph 63 as: "*they are highly relevant to a nuclear weapon programme.*" This is also one of indications that the report is intentionally prepared by an ill mind.

49- None of the shown documents to Iran as well as in the Agency's technical briefing on 11 November 2011, have the confidential classification stamp. This point was brought to the Agency's inspectors' attention during the meetings in Tehran and it was even a surprise to them. How it is possible that written communications take place between high ranking staff of the Defense Ministry, missiles industries and a project manager of a secret project such as a nuclear weapon project and they are not protected at least by a confidential classification stamp? How is it possible for a state to conduct a secret nuclear weapon project with an open routine and unclassified communications?

50- During the meetings in Tehran with the Agency's inspectors, the Agency showed a slide of a questionnaire of the Ministry of Defense project related to nuclear weapons that had written on the top of the page "highly secret nuclear weapon project" and also containing on the bottom of the page a distribution order saying that one of the places this document should be sent to is the library. It is ridiculous that a highly secret project document should be sent to the library being available to all. Several of such lousy mistakes were made by the fabricators that have been shown to the Agency's inspectors. It is obvious that CIA and other intelligence services had made an unprofessional forgery job. They have even overlooked to stamp these fabricated documents with classification sealing.

51- The DG has stated wrongly and unfair that Iran did not engage in substance of these fabricated and forged shown materials while hours and hours have been spent with the Agency's inspectors to discuss it scientifically and substantially. For example for green salt (UF₄), the drawing shown by the Agency's inspectors were evaluated and it was proved what a lousy job had been carried out containing scientific mistakes such as temperature, pressure, flow rate etc which the Agency's inspectors acknowledged. It is also ridiculous that while Iran possesses a most advanced conversion plant in Esfahan to produce tons of UF₄, should secretly assign a student to work on and produce some kilograms of UF₄ for a highly secret nuclear weapon project. By keeping these childish claims, the matter has been kept as an issue in the Board of Governors' agenda which obviously have damaged the Agency's credibility. However, it is worth mentioning that after substantial discussion with the Agency's inspectors they were convinced on the green salt issue and stated that the issue is closed and that we should concentrate on the two other issues namely high explosives and re-entry vehicle. What

has happened that the DG has reopened a closed issue? Why the DG did not report anything about the erroneous points that prove them forged and fabricated?

52- The DG has stated that besides other sources, Iran has also acknowledged some of the information. It is very regrettable that if we honestly answer to questions such as the name of the Defense Ministry and its address, it should be considered as Iran's acknowledgment of the forged documents. What sort of conclusion is this?

53- The approach of the DG in its reporting to the Board of Governors is not fair and honest. Regarding the Parchin military site, the Agency inspectors were granted access to the site and they selected four points for verification based on their imagery satellite pictures. They even after verification requested to go the roof of one of the buildings that they thought, based on their imagery satellite pictures, was a place for missiles. Mr. Claud, the Agency inspector, climbed up and found out that it is actually a chimney. Aren't these accusations of intelligence services shameful and has it not damaged the Agency's credibility? Even more, the Agency has taken several environmental swipe samples and found no evidence of presence of nuclear material in the Parchin complex. It is worth mentioning that after two visits by the Agency's team, Mr. Heinonen, former DDG for safeguards, has stated that all ambiguities related to Parchin are removed and the Parchin is part of the history. What has happened that the DG has reopened a closed issue?

54- It has to be noted that the slides shown on high explosives and missiles are all of conventional nature. It is very simple for a nuclear weapon state like the USA to produce such slides and provide them to the Agency. How can it be proved that these slides belong to Iran? This matter also has been discussed thoroughly with the Agency nuclear weapon expert, Mr. Hutchinson, in depth and substantially. Former DG and former DDG for Safeguards have requested that this expert be granted entry to Iran and to participate in the meetings related to the EBW issue. This was also accepted by Iran and Mr. Hutchinson participated very actively in the meetings. He had provided several technical scientific questions that had been replied to also in written form. After several back and forth questions were answered, Mr. Hutchinson was convinced that the activities conducted by Iran were conventional. However, we don't know why the DG has reopened this old issue? We have to put an end to this endless and tedious debate.

55- Another issue is about commercial software named MATLAB which the Agency believes is used for modeling of nuclear payload. It has to be recalled that during the meeting in Tehran it was stated that this is a commercially available software and even one of the Agency's inspectors confirmed that his son is also using this software. The Agency believes that by showing the commercial name of this software the cycle of required evidence completes the allegation on Iran's nuclear weapon program. What a funny conclusion driven by the highly specialized Agency!

56- In respect of neutron it should be noted that today neutron has various applications such as neutron activation analysis in exploring and mining. It is awkward for the specialized International Agency that correlates any neutron source to the nuclear weapon.

57- According to the false information provided by intelligence services to the Agency and the DG's report, prepared by copying them, it is claimed that only two activities (mentioned in paragraph 45 and 52) have been continued after 2003 and there has not been anything else. It is ridiculous that one can make a nuclear weapon just by these two activities.

58- These facts clearly indicate that the DG's conclusions in his report (GOV/2011/65) are wrong and baseless, because hydrodynamic experiments and neutron cross section

calculations have not been conducted for a nuclear weapon and the so called project 111 has not been for non-conventional activities as the Agency stated.

59- The report is a clear deviation from the Agency's functions and responsibilities where the Agency, in accordance to article IX of the Statute, should carry out its activities in order to "verify the quantities of materials" or "the accounting" of nuclear materials. The Agency is not permitted to enter into cooperation with intelligence services of Member States to act upon the information provided by them, in particular from the US that has a long history of forging documents and manipulating information in order to achieve its narrowly-minded political objectives. The clear example of such a forged document is the so-called "Niger Document" against Iraq which was quoted by the US president and created the scandal of Colin Powell's discredited claims in the Security Council.

60- Article VII.F of the Statute stipulates that "each member undertakes to respect the international character of the responsibilities of the Director General and the staff and shall not seek to influence them in the discharge of their duties". Regrettably, the US officials at the highest level by calling the DG to Washington and explicitly announcing their intention to use the Agency against Iran have violated the Statute.

61- The DG's official meetings in Washington prior to the issuance of his report (GOV/2011/65) and insisting on the annexation of allegations fabricated by the US and Israeli regime intelligence services to the report despite of the warning by the vast majority of Member States has raised serious questions on the neutrality and credibility of the Agency and compliance with article VII of the Statute.

62- Propaganda launched by the US and the Israeli regime immediately after the issuance of the DG report, in some cases even before that, are all in clear breach of the Statute. Member States are expected to take preventing measure on such serious violations.

63- How the Secretariat could be trusted? There has to be some rules and regulation governing our affairs, otherwise we are in a jungle.

64- Finally, as the Work Plan (INFCIRC/711) has been fully implemented, thus the implementation of Safeguards in Iran has to be conducted in a routine manner.