

Information Circular

INFCIRC/823

Date: 28 July 2011

General Distribution

Original: English

Communication dated 9 June 2011 received from the Permanent Mission of the Islamic Republic of Iran to the Agency regarding the Report of the Director General on Implementation of Safeguards in Iran

The Secretariat has received a communication dated 29 June 2011 from the Permanent Mission of the Islamic Republic of Iran to the Agency enclosing an explanatory note on the report of the Director General on “Implementation of the NPT Safeguards Agreement and relevant provisions of Security Council resolutions in the Islamic Republic of Iran” contained in GOV/2011/29.

As requested by the Permanent Mission, the explanatory note is circulated herewith for information.

Explanatory Note
by the
Permanent Mission of the Islamic Republic of Iran to the IAEA
on the report of the IAEA Director General
on Implementation of Safeguards in the Islamic Republic of Iran
(GOV/2011/29 dated 24 May 2011)
9 June 2011

A- General observations:

- 1- The report (GOV/2011/29) is not balanced and factual since it has not duly reflected the cooperation, letters and explanations of the Islamic Republic of Iran to the questions of or communication made with the Agency.
- 2- According to paragraph 27 of the Resolutions on the Safeguards adopted by the General Conference GC/53/RES (14) as well as GC/54/RES (11), the Agency should provide objective technically and factually based reports with appropriate reference to relevant provisions of the Safeguards Agreement. This rule requires the Agency not to step beyond its statutory and legal mandate in preparing its reports. Regrettably, this rule is continuously being neglected and has not been respected in this and in the previous reports.
- 3- Although the report once again reconfirmed that *"While 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 seems that the report has been prepared to use the *"unusual"* language with regard to the safeguards obligations, since the Agency has to simply confirm that it has already verified non-diversion of the declared nuclear material and activities, and all declared nuclear material are accounted for and remained in peaceful purposes, as already reported by the Agency's inspectors.
- 4- The report is expected to reflect the results of the Agency's verification for the period of March to June 2011. It has to report simply whether the inspectors have been able to conduct verification or not. If so, whether their findings are consistent with the declarations or not.
- 5- The report consists of unnecessarily extensive details on the ongoing ordinary technical activities of the peaceful nuclear activities in the Islamic Republic of Iran, which contravenes the protection of the sensitive proprietary information of the Member States.
- 6- Reporting so many technical details proves that the Agency has the full access to all nuclear material and facilities in the Islamic Republic of Iran, including the frequent inspections with using the Agency's containment and surveillances. Therefore, claiming that *"Iran is not providing the necessary cooperation"* is incorrect and misleading. It has to be noted that additional requests are beyond the provisions of the NPT Comprehensive Safeguards Agreement, and that they have been made under the pretext of the illegal UNSC resolutions.

7- Notwithstanding that the Non-Aligned Movement has stated in its several statements to the Board of Governors 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.”*, and also NAM has 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”*, not only no attention has been paid to these statements when preparing the report but quite the opposite acted in contradiction.

8- Once again is recalled that the Article VII.F of the Agency's Statute and Article 5 of the Safeguards Agreement between the Islamic Republic of Iran and the IAEA are both emphasizing on the confidentiality. However, despite these clear instructive articles, the report in contradiction to the Agency's statutory mandate and the Safeguards Agreement (INFCIRC/214) contains a tremendous amount of confidential technical details which have no need to be published. Unfortunately, the Agency, so far, has not been able to protect the confidential information gathered from the conduction of inspections at the safeguarded facilities in the Islamic Republic of Iran, which have been revealed to the media. Such events are profoundly in violation of above mentioned articles and also the IAEA Statute.

9- Unfortunately again the DG's report which marked as *“Restricted Distribution”* is disseminated by the ISIS website upon its distribution exactly on the date of its issuance. Regrettably this indicates that the ISIS website like other western media has access to confidential information of the Agency.

10- Since the Agency contrary to its duties and legal and statutory obligations has not been and is not able to protect sensitive information of Member States' nuclear activities, it is not authorized to reflect detailed information on Iran's nuclear activities in its reports or even reveal them in its so-called technical briefing sessions. It should also be emphasized that the current incorrect reporting approach taken by the Agency, which seems to become a common practice, must be stopped and corrected.

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

1- The Islamic Republic of Iran has already made it clear, that based on the legal provisions such as those of the Agency's Statute and the Safeguards Agreement, the Board of Governors' resolutions against Iran are 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 the politically-motivated, illegal and unjust UNSC resolutions against Iran. Therefore, any request by the Agency stemming from those resolutions is not legitimate and not acceptable.

2- Since the said Security Council Resolutions have not passed through the pertinent 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 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 has not been menaced at all. In fact, the Agency has become more Catholic than the Pope by seeking to implement the provisions of non-legal resolutions, which are portrayed as Iran's legal obligations throughout its reports, as well as frequently mentioning Iran to have refrained from fulfillment of those so-called legal obligations. The Director General of the IAEA had better entrust the task of implementing the UNSC resolutions to the drafter 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 ponder upon 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 think something about his piled over functions and leave out the tasks of others for themselves.

3- 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 its Statute have never happened in the case of the implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran. Therefore, 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 are necessary for engaging the Security Council in the issues raised by the Agency, have been totally ignored in this regard. Referring a country's nuclear issue to the Security Council is only possible under certain conditions as described below:

- a) Determination of non-compliance (diversion) according to paragraph C, 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 the 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, 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 IAEA 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 conveyed Iran's nuclear file to UNSC not based on Article 19, but based on XII.C which is also not justified.

- c) Also the nuclear activities of a country may be reported by the IAEA to the Council in cases where a threat against international peace and security is involved 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 - allegations that have worked as the basis for conveying the Iranian nuclear program to the Security Council - none of the IAEA Director General's reports have ever described Iran's nuclear activities as "*a threat to international peace and security*". Rather, they have expressly declared that such activities are peaceful, and that there are no diversion 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).

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

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 "Charter of the United Nations" and in violation of the international law.

The Security Council, as a UN organ created by Member States, is subject to legal requirements, and is obliged to comply with the same international normative rules that the Member States are bound to. 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.

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 matter which has not been met in respect of the UNSC's resolutions against the Islamic Republic of Iran. Therefore, these resolutions are not acceptable and their implementation is not plausible for the Islamic Republic of Iran.

Based on the IAEA Statute, the Agency's Board of Governors decisions regarding the Islamic Republic of Iran's peaceful nuclear program have the same flaw. 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*

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.

of safeguarded worldwide disarmament and in conformity with any international agreements entered into pursuant to such policies;”.

The following cases are some instances of violating the preamble as well as *Purposes and Principles* of the UN Charter through Security Council & IAEA Board of Governors resolutions against the Islamic Republic of Iran:

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”.*

- Requiring suspension of peaceful nuclear activities, which are under the Agency full surveillance, without any effect on the Agency verification activities:

1. 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));

2. will be contrary to 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”*;

3. 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 *“inalienable right”* of a Member State under Article 4 of the NPT.

- 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).

It is worth to mention, 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 dispute, have the authority to “enforce” or “interpret” a Member State’s Safeguards Agreement.

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 the 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*".

- More generally, requiring suspension of peaceful nuclear activities will be in contradiction 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.

- b) 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*".

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 ridiculous that if the Islamic Republic of Iran was not a party to the NPT, similar to some States in the region would benefit more rights and fewer obligations. Moreover, unjust acts of the Council have sent a destructive signal: that the membership to NPT is futile and its universalisation is a far-reaching objective.

- c) In accordance with paragraph 3 of Article 1 of the Charter (*the Purposes*), the Security Council resolutions against the Islamic Republic of Iran are in contrast with 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.
- d) 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.

- e) 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.

D- Comments on technical issues

Fordow Fuel Enrichment Plant:

- 1- It should be recalled that the Agency has provided the standard format of "Design Information Questionnaire (DIQ)" required for the Fordow Fuel Enrichment Plant (FFEP) by the letter MB-IRA-30/OB2/2009-0825 dated 25 September 2009.
- 2- The Islamic Republic of Iran has already provided the information requested in the said format of DIQ for the FFEP and was submitted on 18 October 2009 to the Agency. Consequently, the second revision of the DIQ on 28 October 2009 and the third revision of the DIQ on 22 September 2010 have been submitted to the Agency.
- 3- Since November 2009, nineteen "Design Information Verifications (DIV) have been conducted at this facility (FFEP) by the Agency's inspectors with satisfactory results. It is also worth to recall paragraph 10 of GOV/2009/74 of the DG report in November 2009 that reads: *"Iran provided access to all areas of the facility [FFEP]. The Agency confirmed that the plant corresponded with the design information provided by Iran"*.
- 4- Based on the Safeguards Agreement with respect to provide design information of a facility to the Agency, specifically Articles 42-48, the Islamic Republic of Iran has fulfilled its obligations in providing the required design information of FFEP to the Agency and paragraph 20 of GOV/2011/29 states that *"the Agency continues to verify that FFEP is being constructed according to the latest DIQ provided by Iran"*.

Other Enrichment Related Activities:

- 5- In response to the Agency's requests for further information in relation to some interviews of the officials and announcements made regarding the site selection of new facilities, the Islamic Republic of Iran has already replied to all of them to the Agency in accordance with its safeguarded obligations.

Heavy Water Related Projects (Suspension):

- 6- The Islamic Republic of Iran did not suspend its uranium enrichment and heavy water research reactor activities, aiming at producing radioisotopes for medical purposes, since there is no logical and legal justification to suspend such peaceful activities which is its inalienable right according to the Statute and NPT, and all of them are subject to surveillance of the Agency. It should be recalled that Iran implemented suspension for more than 2.5 years voluntarily, as a non-legally binding and confidence building measure.

7- The Agency's request in paragraph 26 of the report GOV/2011/29: "... *Iran make the necessary arrangements to provide the Agency, at the earliest possible date, with access to: the Heavy Water Production Plant (HWPP); the heavy water stored at the Uranium Conversion Facility (UCF) in order to take samples, and any other location in Iran where projects related to heavy water are being carried out.*" is not justified and there is no legal basis since they are not falling within Iran's Safeguards Agreement (INFCIRC/214) and are even beyond Additional Protocol.

8- Requesting such information under the pretext of the illegal UNSC resolutions is technically and legally unjustified and shall establish illegal precedence. It should be noted that heavy water plants are not covered by the Comprehensive Safeguards Agreement (CSA). They are also beyond the illegal relevant UNSC resolutions that request only verification of suspension. Therefore, when Iran clearly and loudly states in accordance with its inalienable rights under the IAEA statute and NPT, that work on heavy water related projects have not been suspended, there is no need of such baseless requests by the Agency. Thus, the request to check whether or not Iran has suspended its activities is ridiculous.

Possible Military Dimensions:

9- The 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/817. It is regrettable that the agreed work plan has been totally ignored by the Director General since he took the DG office, except, under the strong request by the Non-Aligned Movement Member States, he has recognized it in his February 2011 report but disappointedly, he again has completely ignored the agreed work plan in his recent report GOV/2011/29 dated 24 May 2011. This is a clear indication that unfortunately, the Director General not only does not believe in the legal framework and Agreements but also he has damaged the impartiality and credibility of the Agency.

10- On the basis of the Work Plan, there were only six outstanding issues that all have been resolved as the former Director General in his reports of November 2007 and February 2008 has explicitly stated: 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.

11- The so called "*Alleged Studies*" have never been considered as an outstanding issue in the Work Plan.

12- 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 spirit of cooperation between the Islamic Republic of Iran and the IAEA.

13- 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 material which had been prepared by the US Government as power point presentations for the Agency, and informed the Agency of its assessment. In this context, the following important points should be recalled:

- a. 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.

- b. 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 material shown to Iran has authenticity and all proved to be fabricated, baseless allegations and false attributions to Iran.
 - c. 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?
 - d. 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*".
 - e. 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.
- 14- 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 that the Director General 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 to the Agency, and its assessment, and the fact that the former Director General 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 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.
- 15- 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. It is recalled that the first paragraph of chapter IV of the Work Plan says: "*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.
- 16- According to 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.
- 17- 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.*"
- 18- In accordance with 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 new wording in paragraph 35 of the report GOV/2011/29 reading that

“the Agency has received further information related to such possible undisclosed nuclear activities, which is currently being assessed by the Agency.” and “there are indications that certain of these activities may have continued beyond 2004.” and also the Director General’s introductory statement to the Board of Governors on 6 June 2011 as “there are indications that certain of these activities may have continued until recently” are contrary to the Work Plan. It is obvious that all I.R. of Iran’s nuclear activities in the past and present have been in peaceful purposes and will be continuously subject to full scope Comprehensive Surveillance. Therefore any information contrary to this is forged, fabricated, false and baseless allegation.

19- 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.”*

20- 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.

21- 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 the Comprehensive Safeguards Agreement.

22- Considering the above and the former DG report in GOV/2009/55, that confirmed that Iran has completed its obligation on the Alleged Studies by informing the Agency of its assessment, and 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).

23- Paragraph 54 of the former DG report in GOV/2008/4 regarding the Possible Military Dimension reads: *“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 material of the Alleged Studies lack authenticity, that no nuclear material was used and that no components were made as declared by the former Director General, are also missing in this report.

24- 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 the spirit and the letter of such an agreement negotiated, which both parties have agreed upon and are committed to. 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 Policy Making Organs of the Agency with Iran and eventually acknowledged by the Board of Governors. Therefore, 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.

25- 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, swipe sampling were foreseen for addressing this matter. 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 as the former Director General 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. 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, to provide necessary supporting documents, and informed the Agency of its assessment in a 117-page document proving that the allegations have been all fabricated and forged. This is in fact reviewing the substance and also the forms.

26- Considering the above, the Agency's request in paragraph 34 of GOV/2011/29 "*Iran provide prompt access to relevant locations, equipment, documentation and persons*" is not justifiable and consequently not acceptable. The Agency is highly expected to observe the utmost professionalism, impartiality and justice in its evaluation.

27- Finally, as the Work Plan has fully been implemented, thus the implementation of safeguards in Iran has to be conducted in a routine manner.

Design Information (Modified code 3.1 of Subsidiary Arrangement):

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

29- In respect of IR-40 reactor at Arak, Iran voluntarily provided access to the Agency for carrying out Design Information Verifications (paragraph 28 of GOV/2011/29).

30- In respect of any new facility as well as design of a reactor similar to Tehran Research Reactor (TRR) (paragraphs 36 and 37 of GOV/2011/29), 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.

31- Since Iran is not obliged to implement modified code 3.1, thus the statement in paragraph 40 of the report GOV/2011/29 "*Iran is not implementing a number of its obligations, including: implementation of the modified Code 3.1 of the Subsidiary Arrangements General Part to its Safeguards Agreement...*" has no legal base, and Iran has adhered to its obligations to provide design information in proper timing.

Additional Protocol:

32- 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 the AP for more than 2.5 years voluntarily as a confidence building measure.

33- Therefore, Iran does not have any obligation implementing the Additional Protocol and such a request as reflected in paragraph 40 of the report GOV/2011/29 "*Iran is not implementing a number of its obligations, including: implementation of the provisions of its Additional Protocol;...*" has no legal basis and is beyond the DG's statutory mandate.

34- Moreover, the Agency's requests stipulated in paragraph 26 of the report GOV/2011/29 fully seats in the provisions of the Additional Protocol which Iran is not obliged to implement and therefore such requests have no legal basis.

35- Iran will not accept the voluntary undertakings be turned into legal safeguards obligations; it should be recalled that State Parties opposed the Additional Protocol, being a

voluntary document, be turned into a legally binding instrument and to be annexed to the Comprehensive Safeguards Agreement of the NPT in the 2010 Review Conference.

Paragraph 41 of the report GOV/2011/29 (Summary):

36- The Islamic Republic of Iran has fully cooperated with the Agency in safeguards application on nuclear material and facilities. Therefore, a statement such as “...*Iran is not providing the necessary cooperation, including by not implementing its Additional Protocol, the Agency is unable to provide credible assurance about the absence of undeclared nuclear material and activities in Iran, and therefore to conclude that all nuclear material in Iran is in peaceful activities*”, is absolutely wrong, has no legal basis and is another example of losing impartiality.

37- The fact that all declared nuclear material in Iran is accounted for and remained in peaceful activities and under the Agency's full scope surveillance, is not reflected and is a missed essential element of this report.

38- Mixing the notions of “*declared nuclear material*” and “*all nuclear material*” in the context of the CSA and Additional Protocol, respectively, in a non-professional manner is not legally justified and also misleads the public at large. Thus the derived conclusion on this base is absolutely wrong. The I.R. of Iran has repeatedly declared that there is no undeclared nuclear activity and material in Iran.

39- It is worth mentioning that the Safeguards Implementation Report for 2010 reads: “*Safeguards activities were implemented for 68 States [including I.R. of Iran] with comprehensive safeguards agreements in force, but without additional protocols in force. For these States, the Secretariat found no indication of the diversion of declared nuclear material from peaceful nuclear activities. On this basis, the Secretariat concluded that, for these States, declared nuclear material remained in peaceful activities.*”

Paragraph 42 of the report GOV/2011/29 (Summary):

In a letter dated 26 May 2011, the Vice President of the Islamic Republic of Iran and Head of the Atomic Energy Organization of Iran (AEOI), H.E. Dr. Fereydoun Abbasi, replied to the 6 May 2011 letter of the Director General and expressed “*In light of the facts and the objective analysis of the presently valid and into force Work Plan between the Islamic Republic of Iran and the IAEA (INFCIRC/711) as mentioned above, the IAEA is obliged to officially declare that the Work Plan is fully implemented, hence the implementation of Safeguards in Iran shall be conducted in a routine manner. After such declaration by the Agency, the Islamic Republic of Iran would be prepared, like any other Member States, to receive relevant questions on its nuclear activities and to remove ambiguities, if any.*”