

Statement by
H.E Ambassador Soltanieh
Permanent Representative of the Islamic Republic of Iran
Before The Board of Governors
IAEA, Vienna
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In the Name of God, the Most Gracious and the Most Merciful

Mr. Chairman, Distinguished Delegates,

At the outset I feel obliged to express appreciation of my people and Government for the uninterrupted indispensable support of the family members of Non-aligned Movement, consisting of over 100 Member States, echoed in the Statement delivered by my dear friend, H.E Ambassador Fawzi of Egypt.

Mr. Chairman,

The international community, public at large, have the right to know the facts that have not been accurately reflected due to biased, selective, and politically motivated debates in the Agency as well as the news governed by

few western countries. It seems that some are acting in vacuum and totally neglect that fact that the Statute of the Agency is the only legal framework for our deliberations. In this session I feel obliged to focus on legal aspects of the nuclear issue of Iran being under consideration since 2002.

The most pragmatic way is to refer to the provision of the Statute and to judge whether the actions including the decisions and resolutions of the Agency have been in accordance with the spirit and letter of the statute of Agency. I have to quote relevant articles in order to refresh the memories, facilitate my arguments, and put on record for the judgement of future generation:

ARTICLE II: Objectives

The Agency shall seek to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world. It shall ensure, so far as it is able, that assistance provided by it or at its request or under its supervision or control is not used in such a way as to further any military purpose.

ARTICLE III: Functions

The Agency is authorized:

1. To encourage and assist research on, and development and practical application of, atomic energy for peaceful uses throughout the world; and, if requested to do so, to act as an intermediary for the purposes of securing the performance of services or the supplying of materials, equipment, or facilities by one member of the Agency for another; and to perform any operation or service useful in research on, or development or practical application of, atomic energy for peaceful purposes;

2. To make provision, in accordance with this Statute, for materials, services, equipment, and facilities to meet the needs of research on, and development and practical application of, atomic energy for peaceful purposes, including the production of electric power, with due consideration for the needs of the under-developed areas of the world;

3. To foster the exchange of scientific and technical information on peaceful uses of atomic energy;

4. To encourage the exchange of training of scientists and experts in the field of peaceful uses of atomic energy

Mr. Chairman,

Based on the above provisions one could easily conclude that:

1- Agency is an international technical organization established merely to promote the peaceful use of nuclear energy throughout the world by accelerating, fostering, assisting and encouraging Member States.

2- Agency safeguards and inspections are voluntary in nature and upon request since:

a- Article II says: “It shall ensure, so far as it is able, that assistance provided by it or at its request or under its supervision or control is not used in such a way as to further any military purpose”. Therefore the Agency can make inspection on materials and equipments that provides member States in order to make sure is used for peaceful purposes.

b- Article III clearly says: “.. if requested to do so, to act as an intermediary for the purposes of securing the performance of services or the supplying of materials, equipment, or facilities by one member of the Agency for another”. Therefore if the supply of nuclear material or equipment from one country to another is subject to surveillances of the Agency, then the Agency is invited by the “recipient” states to apply safeguards and inspections on those specific material and equipment only.

3-Agency is not an intelligence Agency and has no right to interfere in the internal affairs including nuclear policy, program, and activities of Member States jeopardizing their national security.

4-The confidential information which the Agency receives through the technical cooperation project or inspection must be protected.

5-Agency is an independent organization. It is not even categorized as the UN specialized Agencies, such as the WHO, FAO, etc. The Director General shall merely inform the UN General Assembly about its activities in accordance with the IAEA-UN Relationship Agreement. Therefore the IAEA is not considered as subordinate of the UN or the UN Security Council. There are Members of the UN that are not Member States of the Agency. Nowhere in the Agency Statute one could find provisions that Agency is obliged to implement the decisions made by the UN or the UN Security Council. The obligations of members of the United Nations have to be distinguished from their obligations under the Agency's Statute. The UN or the UN Security Council cannot instruct or mandate the Agency what to do, how and when!

6-According to Article 12C, in case of any "Non-compliance", the United Nations General Assembly and the Security Council are only informed about. There is no provision in the Statute on whether the UN or UN Security

Council has any right to dictate the Agency what to do next. The Member States of the UN are the addressee of any decision by it and not the Secretariat of the Agency including the Director General. The Member States of the IAEA mandate the Director General, not the Member States of the UN or the Secretary General of the UN.

Mr. Chairman,

Based on the above undeniable legal facts, I want to review the case of Iran's nuclear issue:

A- According to all reports of the former and present Director General there has been no evidence of diversion of nuclear material and activities to prohibited purposes;

B-The Agency has been able to continue verification in Iran;

C-According to Article 12C only if inspectors recognize "Non-compliance", they shall report to the Director General, and then he would report to the board of Governors. The Board shall then report to the Member States, UN General Assembly and Security Council. Such legal process has not been followed in case of Iran. Never inspectors or Director General recognized "Non-compliance" but few Members of the Board of Governor claimed "Non-compliance" and forced the issue be conveyed to the UN Security Council. It has to be

recalled that the countries in question (EU3 and US) did so raised the notion of “ Non-compliance” for the period prior to 2003 only after almost 3 years when Iran did not continue voluntary suspension, following the conclusion of their untruthful behaviour asking for “temporary suspension” in 2003 but determined to lead to “ cession”; D-Even in the EU3 resolutions including the last one pushing for the involvement of the UN Security Council, there was a phrase “Suspension is not a legally binding, voluntary, and confidence building measure”. How come then They considered the suspension of a voluntary suspension as a “Non-compliance”!

E- According to the provision of the Article 12C of the Statute, the issue of “Non-compliance” is only referred to the case of a country receiving nuclear material and equipment from the Agency but used for prohibited purposes. Therefore the notion of “Recipient State or States” is used in the Article. For example it says: “The Board shall call upon the **recipient State or States** to remedy forthwith any non-compliance which it finds to have occurred” or it says: “In the event of failure of the **recipient State or States** to take fully corrective action within a reasonable time, the Board may take one or both of the following measures: direct curtailment or suspension of assistance being provided by the Agency or by a member, and call for the return of

materials and equipment made available to the recipient member or group of members”. Since none of the materials and equipment that Agency has been dealing with and reported by both Director Generals, since 2003 or referred to almost 20 years before 2003, are received from the Agency;

Conclusion: Based on the above legal facts all measures including resolutions of the Board of Governors and then the resolutions of the UN Security Council, based on the resolution of the Board of Governors, do not have any legal justification thus cannot be implemented.

Mr. Chairman,

A detailed explanatory note reviewing the report of the Director General (GOV/2010/62) is being distributed and published as an INFCIRC document for the information of Member States and public. Therefore due to time constraint I refrain from dealing with the latest report of the Director General in details, and focus on the following main concerns:

- 1- The report has to make a clear distinction between the legally binding, the voluntary, and those disputable measures.

First: The issues and measures which rest in the framework of the Comprehensive Safeguards Agreement (INFCIRC/214). Report of

routine inspections in all nuclear facilities, including enrichment fit in this category.

Second: The measure which Iran has made or the Agency request Iran to do as voluntary measures in order to facilitate the process of verification.

Third: The disputable requests which the Secretariat considers as obligations but Iran disagrees since, based on expressed legal reasons, it considers them outside the statutory mandate of the Agency. Requesting Iran to suspend enrichment and the construction of the Heavy Water Research Reactor (IR-40), to deal with allegations on military dimensions specifically missiles and high explosives, under the pretext of the UN Security Council Resolutions or Additional Protocol, and the modified code 3.1 of the Subsidiary Arrangement, rest in this category.

Mixing these three categories has created confusions, misunderstandings, and even unnecessary political tensions, between Iran and Secretariat, Member States, and public at large.

I hereby request Director General to take into consideration this legitimate request.

2-The report has to make a distinction between the “Declared and undeclared nuclear materials and activities”. I hereby declare that there

are no declarable nuclear materials and activities in accordance with the Comprehensive Safeguards Agreement, other than those already declared which are under full scope safeguards.

Mr.Chairman,

As you are all aware, we are nowadays facing with new ugly phenomena, terrorist acts against scientists and academia who are the irreplaceable assets of mankind. The inhumane assassination of Iranian scientists occurs in pursue of hostile policy against peaceful uses of nuclear energy fully under the Agency's surveillances. Some of the targets are the nuclear experts listed in the UNSC and European Union Sanction. More deplorable is the fact that the name of nuclear expert fully cooperating with the Agency specifically during inspections are among such lists. The proponents are responsible for such unprecedented shameful acts. How can then Member States trust the Agency and be assured that the names of their scientists interacting with the Agency inspectors or Safeguards officials shall not appear in such lists. Such treatment of the nuclear scientists specifically those cooperating with the Agency in the most transparent and honest manner shall have negative consequences for the future of the Agency.

Appreciating the expression of condolence and sympathy with Iranian people losing their loved ones, university professors and experts, I am obliged to declare that such blind terrorist acts, supported by couple of western countries, shall undoubtedly strengthen the solidarity of Iranian people and Government and their determination in pursuing realization of inalienable rights for peaceful uses of nuclear energy.

Mr.Chairman,

After almost eight years of continuous inspection in the most robust and intrusive manner, unprecedented in the history of the Agency, no single evidence of diversion of nuclear materials to military purposes has been found. All nuclear activities remain under the full scope safeguards of the Agency and all nuclear materials are continuously accounted, thus proved to be exclusively peaceful.

The political disputes have to be stopped and the item has to be removed from the Agenda of the Board of Governors. As the experiences of past decades have shown, the uncivilized duel track policies; “Carrot and Stick” or “Sanction and Negotiation” doom to total failure. A new chapter of negotiation based on principle of mutual respect and equality of parties concerns, aiming at enhanced cooperation and mutual trust should be opened.

Mr. Chairman, Distinguished Friends,

I conclude by reminding that the Great Nation of Iran with well over two thousand years of recorded civilization has always opted for dialogue. The Islamic Republic of Iran advises those who have followed the policy of confrontation, to change their attitudes and conducts towards a civilized pattern of negotiations for peaceful solutions of regional and global conflicts and problems, including security concerns regarding nuclear weapons. The Islamic Republic of Iran spares no effort in availing its great potential for a collective endeavor for peace and prosperity throughout the world.

Thank You for Your Kind Attention