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(GOV/2004/51)
Item 19 of the Conference's provisional agenda
(GC(48)/1)

Application of IAEA Safeguards in the Middle East

Report by the Director General

A. Introduction

1. General Conference Resolution GC(47)/RES/13 (2003), in operative paragraph 2, affirmed:

“the urgent need for all States in the Middle East to forthwith accept the application of full-scope Agency safeguards to all their nuclear activities as an important confidence-building measure among all States in the region and as a step in enhancing peace and security in the context of the establishment of a nuclear-weapon-free zone (NWFZ)”;

and the resolution, in operative paragraph 3, called upon all parties directly concerned:

“to consider seriously taking the practical and appropriate steps required for the implementation of the proposal to establish a mutually and effectively verifiable NWFZ in the region” of the Middle East.

2. In this regard, the resolution in operative paragraph 5 reiterated the Director General's mandate from earlier resolutions of the General Conference:

“to continue consultations with the States of the Middle East to facilitate the early application of full-scope Agency safeguards to all nuclear activities in the region as relevant to the preparation of model agreements, as a necessary step towards the establishment of an NWFZ in the region, referred to in resolution GC(XXXVII)/RES/627”;

and operative paragraph 6 repeated the call from previous resolutions of the General Conference to:

“all States in the region to extend their fullest cooperation to the Director General in the fulfilment of the tasks entrusted to him” in this regard by the General Conference.

3. Resolution GC(47)/RES/13 (2003), in operative paragraph 7, further called upon all States in the region:

“to take measures, including confidence-building and verification measures, aimed at establishing an NWFZ in the Middle East”;

and in operative paragraph 4, took note:

“of the importance of the ongoing bilateral Middle East peace negotiations and the activities of the multilateral working group on Arms Control and Regional Security in promoting mutual confidence and security in the Middle East, including the establishment of an NWFZ”;

and called upon the Director General, as requested by the participants:

“to render all necessary assistance to the working group in promoting that objective”.

4. In the context of its Agenda Item ‘Application of IAEA Safeguards in the Middle East’, the General Conference in 2000 adopted Decision GC(44)/DEC/12 in which the Conference requested:

“the Director General to make arrangements to convene a forum in which participants from the Middle East and other interested parties could learn from the experience of other regions, including in the area of confidence building relevant to the establishment of a nuclear weapon free zone”.

The decision also called upon:

“the Director General, with States of the Middle East and other interested parties, to develop an agenda and modalities which will help to ensure a successful forum”.

5. Resolution GC(47)/RES/13 (2003), in operative paragraph 9, requested the Director General:

“to submit to the Board of Governors and to the General Conference at its forty-eighth regular session a report on the implementation of the resolution.”

6. This report describes the steps undertaken by the Director General in seeking to fulfil the mandates conferred by General Conference in Resolution GC(47)/RES/13 (2003) and by Decision GC(44)/DEC/12.

B. Application of Full-Scope Agency Safeguards

7. Since last year’s General Conference, the Director General has not been able to make progress in fulfilling this aspect of his mandate pursuant to resolution GC(47)/RES/13. In his continuing contacts with representatives of States of the Middle East region and during his visits to the States of the region and in other forums, the Director General has reiterated the importance of the mandates entrusted to him and has consistently sought to encourage relevant new ideas and approaches that could help to move his mandates forward.

8. The Director General has continued to stress the emphasis that has been placed in successive Agency General Conference resolutions on the application of comprehensive Agency safeguards on all nuclear activities in the Middle East region. The Director General has also stressed the need for all States that already have a binding obligation to conclude a comprehensive safeguards agreement with the Agency, to conclude such an agreement. At the third session of the Preparatory Committee for the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

(NPT), held in New York from 26 April through 7 May this year, the Agency called upon all States that had not yet done so to conclude comprehensive safeguards agreements with the Agency pursuant to Article III.1 of the NPT.

9. All States of the Middle East region except for Israel are parties to the NPT. Since the last report under this agenda item¹, the United Arab Emirates has brought into force a comprehensive safeguards agreement. As of 31 July 2004, eight States of the Middle East region² that are party to the NPT had yet to bring into force their comprehensive safeguards agreements with the Agency pursuant to that Treaty. Two of those States³ have signed but not yet ratified their NPT comprehensive safeguards agreements. Additional Protocols are in force or otherwise applied in four States of the region⁴, while one State⁵ has signed but not yet brought into force an Additional Protocol, and an Additional Protocol has been approved for another State⁶ in the region.

10. The Director General's discussions with representatives of the States of the Middle East region have showed that there continues to be a long-standing and fundamental difference of views between Israel, on the one hand, and other States of the Middle East region, on the other hand, with regard to the application of comprehensive Agency safeguards to all nuclear facilities in the region. Israel takes the view that safeguards, as well as all other regional security issues, cannot be addressed in isolation from the regional peace process. During the Director General's recent visit to Israel, the Israeli officials stated that they would consider the application of Agency safeguards only in the context of a nuclear-weapon-free zone in the region which they would consider favourably in the context of the peace process and as part of phase II of the "road map to the solution of the Israeli-Palestinian conflict", developed by the Quartet Group (of the European Union, the Russian Federation, the United Nations and the United States of America), which foresees a "revival of multilateral engagement on issues including...arms control". The other States of the region maintain that there is no automatic sequence which links the application of comprehensive safeguards to all nuclear facilities in the Middle East, or the establishment of a nuclear-weapon-free zone, to the prior conclusion of a peace settlement, and that the former would contribute to the latter. The Director General will continue his consultations in accordance with his mandate regarding the early application of comprehensive Agency safeguards on all nuclear activities in the Middle East region.

C. Model Agreements as a Necessary Step towards a Middle East NWFZ

11. The evolutionary process which has resulted in broad adherence to the NPT and consequently to INFCIRC/153-type comprehensive safeguards agreements in the Middle East is an important step in creating confidence regarding nuclear non-proliferation and regional security. Furthermore, the United

¹ GC(47)/12.

² Bahrain, Comoros, Djibouti, Mauritania, Oman, Qatar, Saudi Arabia and Somalia.

³ Oman and Mauritania.

⁴ Jordan and Kuwait – the Additional Protocol is being applied provisionally in the Islamic Republic of Iran and the Libyan Arab Jamahariyah.

⁵ Mauritania.

⁶ Morocco.

Nations General Assembly has adopted without a vote successive resolutions supporting the establishment of an NWFZ in the Middle East⁷. Additionally, in 1995⁸ and 2000⁹, the parties to the NPT reaffirmed their conviction that the development of NWFZs, especially in regions of tension such as the Middle East, as well as the establishment of zones free of all weapons of mass destruction, should be encouraged as a matter of priority, taking into account the specific characteristics of each region. There is, then, a consensus that the global nuclear non-proliferation regime would be further strengthened through the establishment of an NWFZ in the Middle East. The requests of the General Conference for model safeguards agreements require, however, an agreement among the States in the region on the material obligations that those States are prepared to assume as part of an NWFZ agreement in the Middle East region.

12. The material obligations which could form part of an eventual Middle East NWFZ agreement might fall into several general categories, inter alia, those that: (i) preclude research and development on and the possession, acquisition, manufacture or stationing of nuclear weapons or nuclear explosive devices; (ii) require the disclosure of all nuclear activities, including research and development, imports, exports and production; (iii) require the application of the Agency's strengthened safeguards system¹⁰, with possible additional features relevant to the region, to all nuclear material, installations and relevant equipment and material; and (iv) preclude research and development on and the production, importing or stockpiling of weapon-usable fissile material, as well as possible other prohibitions or restrictions on some specific sensitive nuclear activities.

13. During the last few years, the Director General has sought the views of the States of the Middle East region on the material obligations that could be part of an NWFZ and has provided examples of the types of these material obligations¹¹. The Director General's previous reports¹² provided some analysis of the responses received that had cited ideas, for example, that specific provisions of currently existing NWFZ treaties might be drawn upon. Emphasis had been placed, regarding verification arrangements in a future Middle East NWFZ, on the Agency being the main body responsible for verifying compliance with safeguards obligations, with specific regional verification arrangements complementing international verification.

14. There continues to be general lack of clarity on the substance and modalities of an agreement to establish a Middle East NWFZ. The Secretariat may therefore not be in a position at this stage to embark on the preparations of the model agreements foreseen in the resolution. However, the Director General and the Secretariat will continue to consult and work with States of the Middle East region to find the common ground required to develop the model agreements as a necessary step towards the establishment of a Middle East NWFZ.

⁷ United Nations General Assembly Resolution 58/34, "Establishment of a nuclear-weapon-free zone in the region of the Middle East", adopted without a vote on 8 December 2003 (<http://www.un.org/News/Press/docs/2003/ga10217.doc.htm> – United Nations Press Release GA/10217), and earlier resolutions.

⁸ NPT/CONF.1995/32/DEC.2, "Principles and Objectives for Nuclear Non-Proliferation and Disarmament", paragraph 6; and NPT/CONF.1995/32/RES.1 "Resolution on the Middle East".

⁹ NPT/CONF.2000/28 (Part I), "The Middle East, particularly implementation of the 1995 Resolution on the Middle East".

¹⁰ Strengthened safeguards refer to comprehensive safeguards agreements (INFCIRC/153 (Corr.)) and the Model Additional Protocol (INFCIRC/540 (Corr.)).

¹¹ GC(XXXVI)/1019 of September 1992.

¹² GOV/1999/51-GC(43)/17 and GOV/2000/38-GC(44)/14.

D. Agency Assistance with the Activities of the Multilateral Working Group on Arms Control and Regional Security

15. There has not been a plenary meeting of the Multilateral Working Group on Arms Control and Regional Security for nearly a decade – the last such meeting was held in December 1994. Accordingly, no request has been received from the Working Group for Agency assistance. The Middle East “road map”, noted in paragraph 10 above, foresees the revival of multilateral engagement on issues – including arms control – but no request for Agency assistance on this matter has been received.

E. Decision GC(44)/DEC/12 of the General Conference: Arrangements to Convene a Forum

16. The General Conference requested the Director General to make arrangements to convene a forum as described in paragraph 4 above.

17. Nuclear-weapon-free zones have already been established in Latin America, the South Pacific, Southeast Asia, and Africa¹³, respectively, through the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco), the South Pacific Nuclear-Free-Zone Treaty (Raratonga Treaty), the Southeast Asian Nuclear-Weapon-Free Zone Treaty (Bangkok Treaty), and the African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty). These established NWFZs are of particular relevance to the examination of a verification regime for a future Middle East NWFZ: all four treaties cover large inhabited areas and all are designed to ensure the total absence of nuclear weapons from the territories of the States party to them; all four treaties provide for Agency verification of the non-diversion of nuclear material and for the establishment of regional mechanisms to deal with compliance problems; and all four treaties contain a protocol providing for the nuclear-weapon States to commit themselves not to use or threaten to use nuclear weapons against any non-nuclear-weapon State party to the NWFZ treaty in question. In addition to the above, the existing NWFZ treaties contain certain variations and additional rights and obligations that inter alia take into account the specific characteristics of each of the respective regions.

18. Based on consultations carried out by the Director General and the Secretariat, the Director General intends to organize a forum on the relevance of the experience of existing NWFZs, including confidence building and verification measures, for establishing such a zone in the region of the Middle East. A proposal for such a forum is attached as an Annex to this report. Further consultations are in process and it is expected that such a forum would be organized early in 2005.

¹³ NWFZs have also been established in certain uninhabited areas – Antarctica (Antarctic Treaty), Outer Space (Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies) and the sea bed (Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea Bed and the Ocean Floor and in the Subsoil Thereof.)

FORUM
on
Experience of Possible Relevance to the Creation
of a Nuclear-Weapon-Free Zone (NWFZ) in the Middle East

It is proposed that the Forum on the above subject be organized in the second half of January 2005 in Vienna. The Forum would be designed to: (i) study the experience of Africa, Asia, Europe and Latin America in creating regional security regimes and achieving disarmament through establishing NWFZs; and (ii) explore the potential relevance of such experience in the Middle East. The Forum would be solely an informational and discussion event to study concepts relevant to the mandate provided by the IAEA General Conference – it would not be a forum for negotiation.

The principal focus of the Forum would be to: (i) study the lessons of other regions regarding the regional setting and context that had prevailed there before they began considering a NWFZ; (ii) review the existing multilaterally agreed principles for establishing NWFZs in populated areas of the world; (iii) review the theory and practice of establishing the four existing NWFZs; (iv) discuss with representatives from the four existing NWFZs their experience in promoting, negotiating and practically implementing negotiated arrangements for NWFZs; and (v) discuss the possible relevance of such experience in the context of the Middle East.

The Forum would address the following specific topics:

1. Experience in Africa, Asia, Europe and Latin America in making progress towards building *cooperation*, regional stability and security, arms control and disarmament agreements and identification of the required prerequisites towards this end by reaching common understandings on bilateral and regional issues of security, confidence building and *cooperation*; including a discussion on the track record in implementing regional verification arrangements by specifically addressing the practices of Euratom and the Brazil-Argentine Agency for Accounting and Control of Nuclear Materials (ABACC);
2. Principles governing the establishment of NWFZs and the conceptual framework of NWFZ treaty arrangements: (i) geographic delineation; (ii) scope; (iii) verification; (iv) security assurances and (v) other issues, such as the role of extra-regional States, the nature of the arrangements (politically/legally binding), the role of international governmental and non-governmental organizations and the public at large in promoting and supporting the arrangements; and
3. The potential relevance of such experience in the context of the Middle East.