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THE AGENCY'S RESPONSIBILITY TO PROVIDE SERVICES IN CONNECTION WITH NUCLEAR EXPLOSIONS FOR PEACEFUL PURPOSES

Text of a note and of two memoranda received by the Director General from
the Resident Representative of Mexico on 5 August

"806/XIII(CEEN)'69"

4 August 1969

"On instructions from my Government I am requesting you to arrange for the reproduction and distribution, as a document for the thirteenth regular session of the General Conference of the International Atomic Energy Agency, relating to item 15 of the provisional agenda (the Agency's responsibility to provide services in connection with the use of nuclear explosions for peaceful purposes), of the present communication and the annexed memoranda, the contents of which are self-explanatory:

Annex I Memorandum by the Ministry of Foreign Affairs of Mexico to the Director General of the International Atomic Energy Agency of 28 April 1969;

Annex II Memorandum by the Ministry of Foreign Affairs of Mexico to the Secretary-General of the United Nations of 24 July 1969. "

A N N E X I

MEMORANDUM BY THE MINISTRY OF FOREIGN AFFAIRS OF MEXICO TO THE
DIRECTOR GENERAL OF THE INTERNATIONAL ATOMIC ENERGY AGENCY
DATED 28 APRIL 1969

"At the beginning of April 1969, the Secretariat of the Mexican Ministry for Foreign Affairs received letter 0/452-6 of 13 March 1969, with which the Director General of the International Atomic Energy Agency transmitted the text of a resolution approved by the Agency's Board of Governors on 27 February 1969, and which in paragraph 4 'Invites all Members of the Agency to communicate to the Director General by 30 April 1969 their views on the procedures the Agency might employ in connection with the peaceful use of nuclear explosions, so that their views might be taken into account by the ad hoc committee'.

"In view of the short time available before the deadline of 30 April, it was obviously impossible for the competent authorities of the Mexican Government to give documents GOV/1320 and GOV/1320/Add.1[1] (a preliminary analysis submitted by the Director General to the Board of Governors, copies of which were also enclosed with the letter mentioned above) the thorough study they deserve. Their task was all the more difficult because the promised information on the status of the technology of peaceful nuclear explosions, referred to in paragraph 3 of the Board's resolution, was not available and in fact has still not been received.

"This being so, the Government of Mexico must limit itself to transmitting to the Director General the following preliminary views in response to the invitation contained in paragraph 4 of the resolution:

- "(1) In the first stage of its work, during the remainder of this year, the Agency should concentrate on the technical, scientific and safety problems outlined in general terms in the two memoranda of the Director General already referred to, to the extent that they fall within the competence of the Agency; an effort should be made to give priority to those aspects of the question which are of greatest interest and urgency for the developing countries.
- "(2) The report which the Board of Governors is to prepare, with the advice of the ad hoc committee established pursuant to the resolution of 27 February, in order to give effect to General Conference Resolution GC(XII)/RES/245, should be of a preliminary kind because of the delicate and complex nature of the subject and also because its contents will necessarily have to be co-ordinated in many respects with the report which the General Assembly of the United Nations, in Resolution 2456 C (XXIII), requested the Secretary-General to prepare for consideration at its twenty-fourth session.
- "(3) It is the understanding of the Mexican Government - as was expressly stated by the Mexican delegation during the twenty-third session of the General Assembly, at the 1751st Plenary Meeting held on 20 December 1968 - that the study envisaged in Resolution GC(XII)/RES/245 'must in no way prejudice the identity, structure and operation of the appropriate international agency provided for in Article V of the Treaty on the Non-Proliferation of Nuclear Weapons; nor must it prejudice the contents of the 'Special

[1] These documents are for restricted distribution.

International Agreement^f mentioned in that same article^f. The Government of Mexico believes that this is a matter which should be examined and decided by the General Assembly of the United Nations when it considers, at its twenty-fourth session, the report requested of the Secretary-General in Resolution 2456 C (XXIII).

"Tlatelolco, D. F., 28 April 1969"

A N N E X II

"MEMORANDUM BY THE MINISTRY OF FOREIGN AFFAIRS OF MEXICO TO THE
SECRETARY-GENERAL OF THE UNITED NATIONS DATED 24 JULY 1969

"VIEWS OF THE MEXICAN GOVERNMENT ON THE ESTABLISHMENT OF AN
INTERNATIONAL SERVICE FOR NUCLEAR EXPLOSIONS FOR
PEACEFUL PURPOSES[1]

"1. In his note PO/134/7, dated 24 January 1969, the Secretary-General of the United Nations drew the attention of the Secretary for Foreign Affairs of Mexico to operative paragraph 1 of Resolution 2456 C (XXIII), adopted by the General Assembly at its 1750th meeting, on 20 December 1968, in which the General Assembly requested the Secretary-General 'to prepare, in consultation with the States Members of the United Nations and members of the specialized agencies and of the International Atomic Energy Agency, and with the co-operation of the latter and of those specialized agencies that he may consider pertinent, a report on the establishment, within the framework of the International Atomic Energy Agency, of an international service for nuclear explosions for peaceful purposes, under appropriate international control'.

"2. In the same note, the Secretary-General requested that the Mexican Government's views on the establishment of this international service should be transmitted to him before 31 July 1969 in order to facilitate the preparation of the report which the General Assembly had asked him to prepare.

"3. The Mexican Ministry of Foreign Affairs has prepared the present memorandum in response to that request.

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"4. The establishment, within the framework of the International Atomic Energy Agency, of an 'International Service for Nuclear Explosions for Peaceful Purposes' referred to below as 'the Service' - under appropriate international control, in accordance with provisions of Resolution 2456 C (XXIII), will require, in the first place, the preparation and adoption of a 'special international agreement' defining the nature, structure, powers and functions of the Service.

"5. In the light of the statements made at the 1577th meeting of the First Committee by the representatives of the Co-Chairmen of the Conference of the Eighteen-Nation Committee on Disarmament, to which the third preambular paragraph of the above-mentioned resolution specifically refers, it may be stated that the preparation of the special international agreement:

- (1) Should begin as soon as possible; and
- (2) Should be undertaken 'with the broadest possible participation of non-nuclear States'.

"6. Since the international organization which best meets the second requirement mentioned above is unquestionably the United Nations, it follows that the most appropriate organ for the preparation and adoption of the special international agreement is the General Assembly.

[1] Translation provided by the United Nations Secretariat.

"7. This fundamental question having been answered in this way, an effort must now be made to clarify - as will be done in general terms below - two other points which are equally fundamental:

- (1) What the membership of the Service should be; and
- (2) What its main purposes should be.

"8. As far as the membership of the Service is concerned, it goes without saying that all the nuclear-weapon States should be able to belong to it; in this connection, it might be added that the three nuclear-weapon States which are signatories of the Treaty on the Non-Proliferation of Nuclear Weapons have already to some extent undertaken to co-operate with the Service under Article IV and, in particular, Article V of that Treaty.

"9. With regard to the participation of non-nuclear States, three different positions have so far been put forward:

- (1) The position taken by States which have proposed that the benefits of the Service should be extended equally to all States whether or not they are parties to the Treaty on Non-Proliferation;
- (2) The position of those States - including Mexico - which prefer that such benefits should be available to all 'States which have renounced nuclear weapons', where such a renunciation has acquired binding legal force for them under the Treaty on Non-Proliferation or some other international contractual instrument - such as, for example, the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco) - providing for an international control system which is at least as effective as, or more effective than, that provided in the above-mentioned Treaty;
- (3) The position taken by those States which maintain that the benefits in question should be reserved exclusively to the States Parties to the Treaty on Non-Proliferation.

"10. If the first of these three alternatives is adopted, there will be no difficulty if the Service is, as some of the nuclear Powers propose, the International Atomic Energy Agency itself, provided, of course, that the present composition of its Board of Governors is changed and that certain other substantive reforms, necessitated by the special international agreement to be drawn up, are made in its Statute. However, in order for this alternative to be adopted it is essential that those nuclear-weapon States which are or may become parties to the Treaty on Non-Proliferation should accept it, which at the moment appears highly unlikely.

"11. On the other hand, if the second alternative - which would appear to be the most fair and equitable - or the third alternative is preferred, consideration must be given to the establishment of an 'appropriate international body' (to be called the 'Service' or 'Programme') which, though operating within the framework of IAEA, would be distinct from it and would enjoy complete autonomy in carrying out the specific tasks assigned to it. Otherwise, a succession of insoluble problems would arise because, as a number of States, including Mexico, the Philippines, Jamaica and Sweden, have clearly pointed out, the States Members of IAEA are not and for a long time will probably not be the same States as those on which the Treaty on the Non-Proliferation of Nuclear Weapons is binding. (A similar situation exists, of course, in the case of the Treaty of Tlatelolco.)

"12. The Mexican delegation submitted to the Conference of Non-Nuclear-Weapon States a working document (A/CONF.35/DOC.15) which was later circulated as a document of the First Committee of the General Assembly at the Assembly's twenty-third session (A/C.1/1976) and which contains draft proposals for the articles that should be adopted for the purpose of establishing a body having these characteristics.

"13. With regard to the second fundamental point raised in paragraph 7, it is essential to keep in mind that the main purpose of the Service should be similar, within the sphere of its competence, to that of the United Nations Development Programme in its own field of activity, namely to provide, on a multilateral basis, all the technical and financial assistance that might be required by the non-nuclear-weapon States which are members of the Service in order to carry out nuclear explosions for peaceful purposes in their territories under the most favourable possible conditions and with due consideration for the needs of the developing countries.

"14. In order to accomplish this purpose, it is necessary - as the Mexican delegation's working document referred to in paragraph 12 explained in detail - first of all, that the membership of the executive organ of the Service should be such as to afford the countries in question the fullest possible assurance that their requests would always receive prompt, appropriate and objective consideration and, secondly, that the financial arrangements to be adopted would be such as to ensure not only that the cost to the requesting States for nuclear devices would be as low as possible and exclude any charge for research and development but also that the remaining charges incurred in each case would be shared equitably through the application of criteria taking full account of the vast difference in resources between, on the one hand, the nuclear Powers and the other highly industrialized States and, on the other hand, the developing countries, which, as everyone knows, constitute the overwhelming majority of the countries of the world.

"15. To sum up, the main aim should be to ensure that the structure, functions and procedures of the Service meet the primary requirement that this new form of application of nuclear energy - nuclear explosions for peaceful purposes - should help to reduce the economic and social gap separating those generally referred to as the 'northern nations' from the 'southern nations', and that the new body should not be mistakenly regarded as having been set up to provide services which are evaluated from a narrowly economic point of view.

"16. In view of the fact that the Service, as has already been said in paragraph 13, will function as a centre of multilateral assistance in carrying out nuclear explosions for peaceful purposes, the specific agreements required for the execution of each project should be concluded between the Service and the requesting State rather than between the latter and the States providing the explosive nuclear devices.

"17. The Service should be able to provide the requesting State with all the data it may need concerning the economic value of a project, but the final decision on it must rest exclusively with that State itself.

"18. The nuclear-weapon States should undertake to make available to the Service each year explosive nuclear devices of sufficient megatonnage to satisfy all requests for the implementation of projects proposed to the Service and approved by it. This does not mean, of course, that the possession of such devices will be transferred to the Service, since, in order to avoid any possibility of the proliferation of nuclear weapons, there seems to be general agreement that the devices should at all times remain in the possession and under the control of the nuclear Power which has provided them and whose technicians will in each case be responsible for carrying out explosions with the devices. Hence, the international control and observation for which the Service will be responsible will have as its sole object to make certain that the explosive nuclear devices are not used for purposes other than those peaceful uses for which they have been specifically requested.

"19. Lastly, it should be borne in mind that the fact that the Service is to be established 'within the framework' of IAEA does not in any way imply that all functions relating to the utilization of nuclear explosions for peaceful purposes will come under the jurisdiction of the Service. On the contrary, as Mexico, Sweden and a number of other

States have pointed out on various occasions, there are certain aspects of the matter - such as the relation between nuclear explosions for peaceful purposes and the partial prohibition of nuclear tests already in effect under the provisions of the Moscow Treaty, and the further prohibition which it is hoped to achieve through the conclusion of a treaty banning underground tests of nuclear weapons - which obviously must remain under the jurisdiction of the United Nations, even though the latter must act in such matters in close co-operation with the Service.

"20. The Mexican Ministry of Foreign Affairs is certain that the report which the Secretary-General is to prepare in pursuance of Resolution 2456 C (XXIII) will be very useful in helping the General Assembly, at its twenty-fourth session, to set about preparing a draft special international agreement establishing an international service for nuclear explosions for peaceful purposes or as a first step, to define the broad principles and criteria that should govern such an agreement. The Mexican Ministry of Foreign Affairs also cherishes the hope that the broad principles and criteria ultimately adopted by the Assembly will correspond in all essential respects to those which have been set forth in the present memorandum.

"Tlatelolco, D. F., 24 July 1969"