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Implementation of the Safeguards Agreement Between the Agency and the Democratic People's Republic of Korea Pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons

Report by the Director General

1. In resolution GC(46)/RES/14 of 20 September 2002, the General Conference decided to include in the agenda for its forty-seventh regular session an item entitled: *“Implementation of the NPT safeguards agreement between the Agency and the Democratic People’s Republic of Korea.”* This report provides information to the General Conference for its consideration under this agenda item.

A. Background

2. Since 1993, the Agency has been unable to fully implement the comprehensive safeguards agreement with the Democratic People’s Republic of Korea (DPRK) pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), reproduced in document INFCIRC/403. The Agency has never been allowed by the DPRK – a party to the NPT since 1985 – to verify the correctness and completeness of the DPRK’s initial declaration of nuclear material subject to safeguards under that agreement. From November 1994 to December 2002, however, the Agency monitored the ‘freeze’ of the DPRK’s graphite moderated reactor and related facilities as requested by the United Nations Security Council and foreseen in the 1994 US–DPRK ‘Agreed Framework’.

3. In his report to last year’s General Conference (GC(46)/16), the Director General noted that no tangible progress had been made on important issues that had been outstanding since the Agency began to verify the ‘freeze’ in November 1994. Having taken note of the Director General’s report, the General Conference adopted resolution GC(46)/RES/14 in which it noted with growing concern that the Agency continued to be unable to verify the correctness and completeness of the initial declaration

made by the DPRK and was therefore unable to conclude that there had been no diversion of nuclear material. It also urged the DPRK to come into full compliance with its NPT safeguards agreement, including taking all steps that the Agency deemed necessary to preserve all relevant information.

B. Developments since the forty-sixth regular session of the General Conference

4. Following reports of an unsafeguarded uranium enrichment programme in the DPRK, the Secretariat sent letters on 17 and 18 October 2002 to the Government of the DPRK seeking urgent confirmation of the accuracy of these reports. The Secretariat also expressed its readiness to dispatch a senior level team to the DPRK, or to receive a DPRK team in Vienna, to discuss the matter and the general question of the implementation of the NPT safeguards agreement between the DPRK and the Agency.

5. On 28 November 2002 the Director General reported to the Board of Governors his deep concern regarding the possible existence of such an undeclared enrichment programme in the DPRK. He noted that under the DPRK's NPT safeguards agreement, if such an enrichment programme existed, it would have to be subject to safeguards to ensure its peaceful nature. He also expressed the hope that the DPRK would respond to the Agency's enquiry without further delay and urged that the DPRK enter soon into senior level discussions with the Agency on requirements and modalities for compliance with its NPT safeguards agreement. No response was received from the DPRK.

6. On 29 November 2002, the Board of Governors adopted resolution GOV/2002/60 in which it "reiterated its previous calls to the DPRK to comply fully and promptly with its safeguards agreement and to co-operate fully with the Agency to that end"; and "demanded that the DPRK urgently and constructively respond to letters from the IAEA Secretariat requesting clarification of the reported uranium programme". As requested by the Board, the Director General transmitted the resolution to the DPRK and renewed the Secretariat's readiness to hold senior level talks with the DPRK (GOV/INF/2002/16). The reply received from the DPRK on 4 December 2002 (GOV/INF/2002/16) did not respond directly to the request in the resolution that the DPRK clarify reports about an undeclared enrichment programme; nor did it respond to the Secretariat's repeated invitations for senior level talks.

7. The Agency was notified by the DPRK on 12 December 2002 of its decision "to take measures to lift the 'freeze' on our [DPRK] nuclear facilities ... and to normalize the operation of the facilities necessary for power generation". The DPRK demanded that the Agency immediately remove all seals and cameras from all facilities in the DPRK. Furthermore, the letter informed the Director General that "if the IAEA fails to expeditiously take measures to meet our [DPRK] request, we [DPRK] would like to take necessary measures unilaterally" (GOV/INF/2002/17). The Director General replied on 12 December 2002, urging the DPRK "not [to] take any steps unilaterally to remove or impede the functioning of ... seals or cameras" and noted that such actions "would not be in compliance with the requirements of the safeguards agreement" (GOV/INF/2002/17). In a reply received by the Agency on 14 December 2002, the DPRK stated that the DPRK itself would take the "necessary steps to unfreeze the nuclear facilities" and confirmed the DPRK's intention to remove the seals and cameras (GOV/INF/2002/18). In his response of 14 December 2002, the Director General "[took] note that the DPRK authorities have decided to restart activities at the nuclear facilities previously subject to the 'freeze'" and stated that the Agency was "preparing for a change from a situation in which the IAEA inspectors monitor the 'freeze' pursuant to the Agreed Framework to a different situation in which we

only apply safeguards in accordance with the safeguards agreement between the DPRK and the IAEA pursuant to the NPT”, noting that the Agency would “need time to complete [its] technical preparations ... to determine which cameras or seals can be removed [and] which have to stay”. He repeated the offer made in previous correspondence, for senior experts to meet in the DPRK or in Vienna, to discuss and agree on the required practical arrangements.

8. On 21 December 2002, the Director General was informed by Agency inspectors in Nyongbyon that the DPRK had unilaterally cut most of the seals, impeded the functioning of surveillance equipment installed at the 5 MWe reactor and removed containment and surveillance equipment required for safeguarding the 20 damaged irradiated fuel rods containing nuclear material located in the dry storage at the 5 MWe reactor. He immediately sent a letter to the DPRK reiterating that it was essential for the purpose of the continuity of safeguards that the current containment and surveillance measures continued to be in place and that the DPRK did not take any steps unilaterally to remove or impede the functioning of the seals and cameras that were required for the purposes of safeguards (GOV/INF/2002/19). The equipment in question was listed in a separate communication from the Secretariat to the DPRK dated 21 December 2002. Notwithstanding, the DPRK had by 24 December 2002 unilaterally removed all seals and obstructed all cameras installed for verification purposes at the spent fuel pond of the 5 MWe reactor and at the reprocessing plant. Seals placed on large quantities of nuclear material scrap and on equipment at the fuel fabrication plant were also detached. The DPRK informed Agency inspectors in Nyongbyon that it would restart the 5 MWe reactor within one to two months. In a letter dated 26 December 2002, the Secretariat requested the immediate re-installation of seals and cameras required for the implementation of safeguards.

9. The DPRK sent a letter on 27 December 2002 to the Director General reiterating the DPRK Government’s decision to “immediately resume the operation and construction of the nuclear facilities needed for generating electricity” and stating that “with the releasing of the freeze” on the DPRK’s nuclear facilities, the mission of the Agency inspectors in Nyongbyon had “automatically come to its end”. It announced its decision “to let the inspectors leave the DPRK since there is no justification for them to remain,” and asked the Director General “to take necessary steps immediately” (GOV/INF/2002/20). In a letter of the same date (GOV/INF/2002/20), the Director General responded that he expected the DPRK to allow the inspectors to remain in Nyongbyon to undertake the necessary safeguards measures that had been outlined in the Secretariat’s letter of 26 December 2002. On 28 December 2002, the DPRK confirmed to the Agency inspectors in the field receipt of the Director General’s letter dated 27 December and said “there would be no response to it”. The DPRK also requested that the Agency inspectors leave the DPRK immediately. In his 30 December 2002 report to the Board of Governors (GOV/2002/62), the Director General provided information on these developments. On 31 December 2002, the two remaining Agency inspectors left the DPRK.

10. On 31 December 2002, the DPRK re-iterated to the Director General its views on the safeguards agreement (GOV/INF/2003/2). Following consideration of the Director General’s report at its meeting on 6 January 2003, the Board adopted the resolution set out in document GOV/2003/3, which reiterated the Board’s previous calls to the DPRK to comply promptly and fully with its NPT safeguards agreement, which remained binding and in force, and called upon the DPRK to co-operate urgently and fully by taking a number of steps, as detailed in operative paragraph 6 of the resolution. The Board affirmed that, unless the DPRK took all necessary steps to allow the Agency to implement all the required safeguards measures, the DPRK would be in further non-compliance with its NPT safeguards agreement. Following a request by the Board of Governors, the Director General transmitted the resolution to the DPRK on 6 January 2003, underlining the readiness of the Secretariat to undertake a dialogue with the DPRK Government (GOV/INF/2003/3).

11. The Government of the DPRK, in its response to the Director General dated 10 January 2003 (GOV/INF/2003/3), noted that “pursuant to the DPRK–US Joint Statement, the DPRK Government

had unilaterally decided on 12 March 1993 to put a moratorium on the effectuation of its withdrawal from the NPT”, and announced its decision, taken on 10 January 2003, to “lift” that “moratorium”, and to withdraw from the NPT with effect from 11 January 2003. In the DPRK’s view, having “suspended” its 12 March 1993 notification of withdrawal one day short of the three month period provided for in Article X (1) of the NPT, it needed only one day following its “lifting of that moratorium” for the withdrawal to become effective.

12. Based on a report by the Director General (GOV/2003/4), the Board, in a resolution of 12 February 2003 (GOV/2003/14), confirmed that the Agency’s NPT safeguards agreement with the DPRK remained binding and in force, declared that the DPRK was in further non-compliance with its safeguards agreement, called upon the DPRK to remedy its non-compliance urgently by taking all steps deemed necessary by the Agency, and decided to report the DPRK’s non-compliance and the Agency’s inability to verify non-diversion of nuclear material subject to safeguards to all Members of the Agency and to the UN Security Council and General Assembly. In parallel, the Board stressed its continuing desire for a peaceful solution of this issue. The Board requested the Director General to continue his efforts to implement the safeguards agreement with the DPRK. On the same day, the Director General transmitted the Board’s resolution to the Minister of Foreign Affairs of the DPRK and sent letters to the Presidents of the United Nations Security Council and the General Assembly to inform both organs of the Board’s resolution.

13. The Board also discussed the issue in its March and June 2003 meetings. It noted with regret the lack of co-operation by the DPRK and the fact that the DPRK had yet to take any of the necessary steps called for in Board resolution GOV/2003/3. The Board expressed its full support to the Director General in his efforts to bring the DPRK into compliance with its safeguards agreement.

C. Conclusions

14. The Agency remains unable to verify that the DPRK is in compliance with its safeguards agreement pursuant to the NPT. The status of the DPRK under the NPT, however, is in need of clarification. As a result of the unilateral actions of the DPRK to interfere with or remove the Agency’s containment and surveillance equipment at its nuclear facilities and to expel Agency inspectors, the Secretariat has remained, since the end of 2002, unable to verify that nuclear material previously placed under safeguards in the DPRK has not been diverted.