

General Conference

GC(48)/17

Date: 16 August 2004

General Distribution

Original: English

forty eighth regular session

Item 18 of the Conference's provisional agenda
(GC(48)/1)

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(47)/RES/12 of 19 September 2003, the General Conference decided to include in the agenda for its forty-eighth 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 concluded with the Democratic People’s Republic of Korea (DPRK) in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The Safeguards Agreement, which entered into force on 10 April 1992, is 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’. As reported by the Director General to last year’s General Conference (GC(47)/19), on 31 December 2002 Agency inspectors had to leave the DPRK in response to the request of the DPRK following its termination of the ‘freeze’ on its nuclear facilities.

3. 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 Security Council and General Assembly of the United Nations. In parallel, the Board stressed its continuing desire for a peaceful solution of this issue. 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.

4. As the Director General informed the Board in his introductory statement on 17 March 2003, his letter to the DPRK has elicited no formal response, and no positive developments have been reported as a result of the various diplomatic initiatives that have taken place. The Director General noted also that reports had indicated that the DPRK had restarted its 5 MW reactor at Nyongbyong. The operation of this facility without the appropriate safeguards would be in violation of the DPRK's safeguards agreement. In his concluding remarks to the Board on 18 July 2003, the Director General noted reports on the DPRK's reprocessing of the fuel rods that were under safeguards and stated that "the situation in the DPRK is currently the most immediate and most serious threat to the nuclear non-proliferation regime".

5. In his report to last year's General Conference (GC(47)/19), the Director General noted that "the Agency remained 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."

6. Having considered the Director General's report, the General Conference adopted resolution GC(47)/RES/12 on 19 September 2003 in which it deplored the steps taken by the DPRK which led to the Board's decision of 12 February 2003 to find the DPRK in non-compliance with its NPT safeguards agreement and further deplored the DPRK's continued unwillingness to enter into the substantive dialogue which it was offered by the IAEA or to permit the application of comprehensive safeguards. It called upon the DPRK to promptly accept comprehensive IAEA safeguards and cooperate with the Agency in their full and effective verification and urged the DPRK to completely dismantle any nuclear weapons programme in a prompt, transparent, verifiable and irreversible manner, maintaining the essential verification role of the IAEA.

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

7. In his statement to the Board on 8 March 2004, the Director General noted that the nuclear activities of the DPRK and its notice of withdrawal from the NPT had set a dangerous precedent and thus remained a threat to the credibility of the nuclear non-proliferation regime. In his introductory statement to the Board of Governors on 14 June 2004, he noted that, since 31 December 2002, when on-site monitoring activities were terminated at the request of the DPRK, "the Agency has been unable

to draw any conclusions regarding the DPRK's nuclear activities," and that, unfortunately, he had no new developments to report. To date, no inspection activities are being carried out in the DPRK.

8. The Secretariat remains ready to work with all parties towards a comprehensive solution that strikes a balance between the security needs of the DPRK and the need of the international community to gain assurance, through international verification, that all nuclear activities in the DPRK are exclusively for peaceful purposes. The Director General has noted that the six-party talks involving the People's Republic of China, the DPRK, Japan, the Republic of Korea, the Russian Federation and the United States of America are a welcome development. The Agency is not party to these talks, however, and therefore the Director General is not in a position to report on them.

9. The Director General continues to urge that any future settlement of the DPRK nuclear issue ensure the return of the DPRK to the nuclear non-proliferation regime, and provide the Agency with the authority necessary for it to provide credible and comprehensive assurances regarding the peaceful nature of the DPRK's nuclear programme.