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Application of IAEA Safeguards in the Middle East

Report by the Director General

A. Introduction

1. General Conference Resolution GC(50)/RES/16 (2006), 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 furthermore 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(50)/RES/16, in operative paragraph 7, further called upon all States in the region:

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

and in operative paragraph 4, took note:

“of the importance of the 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”.

4. Resolution GC(50)/RES/16, in operative paragraph 9, requested the Director General:

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

5. 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”.

6. The Director General has continued to consistently stress the importance of the mandates entrusted to him and has sought to encourage the development and consideration of relevant new ideas and approaches that could help to move his mandates forward. This report describes the steps undertaken by the Director General in seeking to fulfil the mandates conferred by the General Conference in Resolution GC(50)/RES/16 and by Decision GC(44)/DEC/12.

B. Application of Full-Scope Agency Safeguards

7. The Director General has continued to stress the emphasis that has been placed in successive IAEA General Conference resolutions on the application of comprehensive Agency safeguards on all nuclear activities in the Middle East region.

8. All States of the Middle East region¹ except for Israel are parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and have undertaken to accept Agency safeguards to provide the assurance that all of their nuclear activities are for peaceful purposes. Since the last report on this agenda item,² a comprehensive safeguards agreement has entered into force for one State³ in the region. Thus, as of 27 July 2007, seven States⁴ of the Middle East region that are party to the NPT have yet to bring into force their comprehensive safeguards agreements with the Agency pursuant to that Treaty; three of those States⁵ have signed but have not yet brought into force their NPT comprehensive safeguards agreements, while the remaining four States have yet to take any action in this regard. Additional Protocols are in force in three States⁶ of the region, while five States⁷ have signed but not yet brought into force Additional Protocols, and an Additional Protocol has been approved for one other State⁸ in the region but not yet signed.

9. The Director General has not been able to make further progress in fulfilling his mandate pursuant to resolution GC(50)/RES/16 regarding the application of full-scope Agency safeguards in the region of the Middle East. The Director General's discussions with representatives of the States of the Middle East region have shown once again that there still 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 activities in the region. Israel maintains that Agency safeguards, as well as all other regional security and arms control arrangements cannot be addressed in isolation from regional peace and stability. In its view, the establishment of a mutually verifiable NWFZ could only be a result of a gradual process which includes confidence-building measures and the establishment of full and lasting relations of peace between all the States of the region.⁹ The other States of the region emphasize that they are all parties to the NPT and maintain that there is no automatic sequence which links the application of comprehensive safeguards to all nuclear activities in the Middle East, or the establishment of an NWFZ, to the prior conclusion of a peace settlement, and that the former would contribute to the latter.¹⁰ The Director General will continue his consultations in accordance with his

¹ Algeria, Bahrain, Comoros, Djibouti, Egypt, Islamic Republic of Iran (Iran), Iraq, Israel, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya (Libya), Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates and Yemen (23) – *Technical Study on Different Modalities of the Application of Safeguards in the Middle East*, (IAEA Document) GC (XXXIII)/887, 29 August 1989, para. 3.

² GC(50)/12 (22 August 2006).

³ Oman.

⁴ Bahrain, Comoros, Djibouti, Mauritania, Qatar, Saudi Arabia and Somalia.

⁵ Comoros, Mauritania and Saudi Arabia.

⁶ Jordan, Kuwait and Libya.

⁷ Comoros, Iran, Mauritania, Morocco and Tunisia.

⁸ Algeria.

⁹ Israel's position on this matter has also been elaborated in document GOV/2004/61/Add.1-GC(48)/18/Add.1; and in the statements by the Permanent Representative of Israel at the meetings of the Board of Governors in June 2006 (GOV/OR.1158), September 2006 (GOV/OR.1171) and March 2007 (GOV/OR.1181), and at the 50th regular session of the IAEA General Conference on 18–22 September 2006 (GC(50)/OR.6). The "road map" is described briefly in paragraph 14 of this report.

¹⁰ The views of some of the other States of the region (Algeria, Egypt, Iran, Iraq, Jordan, Kuwait, Libya, Morocco, Saudi Arabia, Sudan, Syrian Arab Republic, Tunisia, United Arab Emirates and Yemen) have been elaborated further in their statements at the 50th regular session of the IAEA General Conference on 18–22 September 2006 (GC(50)/OR.1, GC(50)/OR.2, GC(50)/OR.3, GC(50)/OR.4, GC(50)/OR.5, GC(50)/OR.6, GC(50)/OR.8, GC(50)/OR.10), and at the meetings

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

10. 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 Nations General Assembly has adopted without a vote successive resolutions supporting the establishment of an NWFZ in the Middle East.¹¹ Additionally, in 1995¹² and 2000¹³, 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, 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.

11. As described in the previous reports of the Director General, most recently in GC(50)/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 system¹⁴, 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 nuclear activities.

12. During the last several 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 obligations¹⁵. The Director General's previous reports¹⁶

of the Board of Governors in September 2006 (GOV/OR.1171), November 2006 (GOV/OR.1174), March 2007 (GOV/OR.1179 and GOV/OR.1181), and June 2007 (GOV/OR.1187).

¹¹ United Nations General Assembly Resolution 61/56, "Establishment of a nuclear-weapon-free zone in the region of the Middle East", adopted without a vote on 6 December 2006 (<http://daccessdds.un.org/doc/UNDOC/GEN/N07/295/65/PDF/N0729565.pdf?OpenElement>) and earlier resolutions.

¹² 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".

¹³ NPT/CONF.2000/28 (Part I), "The Middle East, particularly implementation of the 1995 Resolution on the Middle East".

¹⁴ Strengthened safeguards refer to comprehensive safeguards agreements (INFCIRC/153 (Corr.)) and the Model Additional Protocol (INFCIRC/540 (Corr.)).

¹⁵ GC(XXXVI)/1019 of September 1992.

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 has 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.

13. There still 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.

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

14. There has not been a plenary meeting of the Multilateral Working Group on Arms Control and Regional Security for more than 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 to the solution of the Israeli-Palestinian conflict”¹⁷, developed by the Quartet Group (of the European Union, the Russian Federation, the United Nations and the United States of America), foresees in phase II a “revival of multilateral engagement on issues including ... arms control”; however, no request for Agency assistance on this matter has been received by the Director General.

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

15. The General Conference in 2000 adopted Decision GC(44)/DEC/12, as referred to in paragraph 5 above, in which the Conference requested the Director General, inter alia, to develop an agenda and modalities which will help to ensure a successful forum on the relevance of the experience of existing NWFZs, including confidence building and verification measures, for establishing a nuclear-weapon-free zone in the region of the Middle East.

¹⁶ GOV/1999/51-GC(43)/17 and GOV/2000/38-GC(44)/14.

¹⁷ “A Performance-Based Road Map to a Permanent Two-State Solution to the Israeli-Palestinian Conflict”, United Nations News Centre: <http://www.un.org/media/main/roadmap122002.html>.

16. As noted in the Director General's previous reports, most recently in GC(50)/12, nuclear-weapon-free zones have already been established in Latin America and the Caribbean, the South Pacific, Southeast Asia, Africa and Central Asia¹⁸, 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 (Rarotonga Treaty), the Southeast Asian Nuclear-Weapon-Free Zone Treaty (Bangkok Treaty), the African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty) and the Treaty on a Nuclear-Weapon-Free Zone in Central Asia. Although these five established NWFZ treaties contain individual variations and particular rights and obligations that take into account the specific history of each treaty and the characteristics of each of the respective regions, they are of relevance to the establishment of an NWFZ in the Middle East region, including a verification regime for a future Middle East NWFZ. All five 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 five NWFZ 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 five 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.

17. As reported in GC(50)/12, and in previous reports, consultations were carried out by the Director General and the Secretariat with concerned States of the region on a forum (the Secretariat's proposal for such a forum was contained in the Annex to GC(48)/18). Despite these efforts, the concerned States have not reached agreement on the agenda for such a forum. The Director General remains ready to continue to consult with the concerned States in order to reach agreement in this regard. The Director General has continued to call for an expanded regional dialogue on issues of security to facilitate the establishment of an NWFZ in the region of the Middle East and to encourage the concerned States to initiate a regional security dialogue in parallel with the on-going efforts to resolve long-standing conflicts, with a view to accelerating the process towards the establishment of an NWFZ in the Middle East.

¹⁸ 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.)