

# General Conference

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## Fifty-third regular session

# Plenary

## Record of the Eleventh Meeting

*Held at Headquarters, Vienna,, on Friday, 18 September 2009, at 4.30 p.m.*

**President:** Ms MACMILLAN (New Zealand)

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<sup>1</sup> GC(53)/24.

**Abbreviations used in this record:**

DPRK	Democratic People's Republic of Korea
NAM	Non-Aligned Movement
NPT	Treaty on the Non-Proliferation of Nuclear Weapons
NPT Review Conference	Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

## **24. Prohibition of armed attack or threat of attack against nuclear installations, during operation or under construction (GC(53)/1/Add.2 and GC(53)/20)**

1. The PRESIDENT noted that the item had been included in the agenda pursuant to a request by the Islamic Republic of Iran, whose explanatory memorandum was contained in the Attachment to document GC(53)/1/Add.2. The Attachment to document GC(53)/20 contained a communication from the Resident Representative of Egypt on behalf of the Vienna Chapter of NAM supporting the inclusion of the item in question.
2. Mr SOLTANIEH (Islamic Republic of Iran) said that sustainable development and nuclear energy applications were highly dependent on the safe and secure management of nuclear energy. Accidents or events such as military attacks against nuclear facilities had a serious impact on the public's perceptions of, and thus its support for, the further development of the peaceful uses of nuclear energy.
3. The Chernobyl accident had demonstrated that radioactive material was not bound by international boundaries. Any release of radioactive material had serious radiological consequences whether it resulted from an accident or from a deliberate act of terrorism or a military attack.
4. Since its founding, the Agency had dealt with both nuclear accidents and military attacks against nuclear installations. In the former case, an intensive and detailed technical analysis had been carried out involving leading experts from all over the world. In the latter case, however, the political environment had prevented action leading to the creation of a legally binding instrument as an international preventive measure.
5. General Conference resolution GC(XXIX)/RES/444 stated that "any armed attack on and threat against nuclear facilities devoted to peaceful purposes constitutes a violation of the principles of the United Nations Charter, international law and the Statute of the Agency". In resolution GC(XXXI)/RES/475, the General Conference had stated that it was "Aware of the fact that an armed attack on a nuclear installation could result in radioactive releases with grave consequences within and beyond the boundaries of the State which has been attacked". Finally, resolution GC(XXXIV)/RES/533 of 1990, proposed by Iran, had recognized that "an armed attack or a threat of armed attack on a safeguarded nuclear facility, in operation or under construction, would create a situation in which the United Nations Security Council would have to act immediately in accordance with the provisions of the United Nations Charter".
6. In view of the extensive development and expansion of nuclear applications throughout the world since the adoption of the latest resolution on the issue in question almost two decades previously, there was an urgent need to renew the call for collective measures to prevent any military attack or threat of attack against nuclear facilities in operation or under construction. The international community's minimum expectation of the Agency, as the competent organization in that field, was that it adopt a resolution based on its past decisions and new developments.
7. The Agency had already recognized the importance of the safety, security and physical protection of nuclear material and nuclear facilities.
8. In view of the aforementioned facts, and bearing in mind the bitter reality of the potential threat to the health and safety of the people of the world, his country proposed that the General Conference

should: a) Deplore any threat of attack or attack against any nuclear installation and enact appropriate collective punitive measures vis-à-vis possible violators, in accordance with the Statute of the Agency and the United Nations Charter; b) Request the Director General to study the feasibility of starting negotiations, under the auspices of the Agency, with a view to concluding a legally binding international instrument to prevent the attack or threat of attack against nuclear installations; c) Request the Director General to explore the possibility of using the texts of two post-Chernobyl conventions, the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, as a model for early notification and mutual assistance in case of an armed attack against nuclear facilities and, in that context, request the Director General to establish an emergency assistance mechanism at the Agency's Headquarters in Vienna similar to that which exists for nuclear accidents, to render technical assistance to Member States that have been attacked, upon request, inter alia radiation protection assistance; d) Encourage all Member States to render, upon request, immediate technical and humanitarian assistance to any Member States whose nuclear installations have been subjected to an armed attack; and e) Request the Director General to include the item under discussion in the agenda for the 54th regular session of the General Conference and to report on steps implemented with respect to issues of concern and interest touched upon during the current session, and on any further developments.

9. Iran had decided not to table a resolution, though it had received the support of members of NAM and other countries. Since the issue was one of concern to almost all Member States, it was important that any decision be adopted unanimously.

10. Mr FAWZY (Egypt), speaking on behalf of the Vienna Chapter of NAM, recalled that, in a letter to the Director General dated 24 August 2009, the Vienna Chapter of NAM had lent its support to the inclusion of an item in the agenda for the current session of the General Conference entitled "Prohibition of armed attack or threat of attack against nuclear installations, during operation or under construction", as it considered the item to be relevant to the work of the Agency.

11. As a reflection of the importance they attributed to the issue, NAM Heads of State and Government had included the following language in paragraph 137 of the final document issued by the 15th NAM Summit held in Sharm el Sheikh in July 2009:

"The Heads of State and Government *reaffirmed* the inviolability of peaceful nuclear activities and that any attack or threat of attack against peaceful nuclear facilities — operational or under construction — poses a great danger to human beings and the environment and constitutes a grave violation of international law, principles and purposes of the UN Charter and regulations of the IAEA. They recognised the need for a comprehensive multilaterally negotiated instrument prohibiting attacks or threat of attacks on nuclear facilities devoted to peaceful uses of nuclear energy."

12. Mr CODORNIU PUJALS (Cuba) said that his country considered the General Conference's examination of the issue in question both timely and relevant.

13. As was recognized in Chapter VII of the United Nations Charter, force was a means of last resort to be used only in extraordinary circumstances to maintain international peace and security. The abuse and illegitimate use of force, and the threat of its use, not only violated Article 2.4 of Chapter I of the Charter, it put the possibility of a just and definitive solution to any conflict out of reach forever.

14. Furthermore, an armed attack on a nuclear facility could result in radioactive releases with grave consequences for the health of human beings and for the environment extending beyond national borders.

15. Despite wide recognition of those facts, in recent years the world had witnessed frequent threats by certain States to use force against facilities, and even an instance where one such State had brazenly bombed a location in another country based on ‘suspicions’ that it was a nuclear facility.

16. Cuba firmly rejected such attitudes and held the view that the international community should mobilize immediately to prohibit them. Thus, his country supported the view voiced by NAM that a multilateral instrument was needed to prohibit attacks or threats of attack on nuclear facilities.

17. The Agency, as the organization responsible for promoting the peaceful and safe use of nuclear energy, should take the initiative in promoting the negotiation of such an instrument.

18. Mr OTHMAN (Syrian Arab Republic) said that it was a source of great concern that the Conference was unable to agree on a resolution prohibiting armed attack or threat of attack on nuclear installations during its current session. In 1981, Israel had destroyed a nuclear reactor in Iraq and it was still threatening to bombard nuclear facilities in Iran. Those facilities were under Agency safeguards and international inspectors were verifying all activities that were being conducted in them.

19. Syria had expected that the Conference would consider any attack or threat of attack against peaceful nuclear activities a crime deserving of punishment. The inability of the Conference to take such a decision placed a great responsibility on the shoulders of Member States with respect to the need to establish international peace and security.

20. On the preceding day, the representative of Israel had commented on violations of commitments by neighbouring countries, which his delegation had been surprised to hear. Israel had circulated unfounded accusations against Syria and had tried to upset the work of the Agency. It was the only country in that region which violated such commitments and which violated international legal decisions regarding non-proliferation. It was also the only country that had openly admitted that it possessed nuclear weapons, thereby threatening the security and stability of the whole region.

21. Syria hoped that the issue under discussion would be given the importance it deserved at the next session of the General Conference, that it would be included as an item on the agenda of the 54th General Conference and that agreement would be reached on a resolution.

22. He reminded those present that the aim of establishing a nuclear-weapon-free zone in the Middle East was not merely to add one more such zone to those already existing in the world; rather, it was a serious attempt to remove one threat which had rendered that region unstable. The establishment of such a zone was the only means of ensuring peace and security for the whole world.

23. The PRESIDENT invited the Conference to endorse the following Presidential statement which reflected the agreed compromise on the item:

24. “The General Conference considered the agenda item 24 entitled ‘Prohibition of armed attack or threat of attack against nuclear installations, during operation or under construction’. The General Conference noted GC(XXIX)/RES/444 and GC(XXXIV)/RES/533, which noted that ‘any armed attack on and threat against nuclear facilities devoted to peaceful purposes constitutes a violation of the principles of the United Nations Charter, international law and the Statute of the Agency’, and a thorough discussion was made on all aspects of the issue. Member States recognized the importance attached to safety, security and physical protection of nuclear material and nuclear facilities and, in that regard, expressed their views on the importance they attached to the protection of nuclear installations. They also noted the need to have the Agency involved in early notification and assistance in cases of radioactive release from nuclear installations.”

25. The Conference endorsed the Presidential statement.

26. Ms FEROUKHI (Algeria) said that it was perhaps useful that the Conference had reflected on the issue, and that the item had been placed on the agenda, since the Convention on the Physical Protection of Nuclear Material and the International Convention for the Suppression of Acts of Nuclear Terrorism, both of which had been ratified by Algeria, did not address those kinds of attacks.

## **20. Implementation of the NPT safeguards agreement between the Agency and the Democratic People's Republic of Korea** (GC(53)/13; GC(53)/L.4 and 7)

27. The PRESIDENT, turning to agenda item 20, which had been included in the agenda pursuant to General Conference resolution GC(52)/RES/14, said that, since that resolution had been adopted, the Director General had reported periodically to the Board on the implementation of safeguards in the DPRK and, in document GC(53)/13, he summarized the developments over the preceding year. Document GC(53)/L.4 contained a draft resolution submitted by a number of sponsors. Document GC(53)/L.7 contained a proposal by other Member States for the insertion of a new operative paragraph in that draft resolution. The latter two documents had been submitted only that day. However, since that was the last day of the Conference, she took it that there was no objection to suspending of Rule 63 of the Rules of Procedure of the General Conference in order to enable the Plenary to consider the draft resolution and the proposed amendment.

28. It was so decided.

29. Mr KUMAR (India), raising a point of order, said that his delegation had just had the opportunity to see the proposed amendment contained in document GC(53)/L.7 and was surprised that it appeared to have nothing to do with the substance of the resolution but sought to bring in a much larger issue on which it would be difficult for his delegation to take a position without consulting with its national authorities. As such, he cautioned against taking up that proposal.

30. Mr EL-KHOURY (Lebanon) said that the Arab Group perceived that the draft resolution contained in document GC(53)/L.4 could not achieve its objective without universal application of the NPT. He saw no reason why anyone should vote against universal application of the NPT but, in the interests of reducing conflict during the General Conference, he withdrew the proposal for a new operative paragraph on behalf of the Arab Group.

31. Mr BARRETT (Canada), introducing the draft resolution contained in document GC(53)/L.4, said it had been negotiated by a core group of countries in consultation with China and Russia. The resolution was being submitted on behalf of approximately 40 Member States, and he apologized for its late circulation. It reiterated concerns about actions by the DPRK that posed serious challenges to the nuclear non-proliferation and disarmament regime, as well as to peace and security. It urged the DPRK not to conduct any further nuclear tests and stressed the importance of full implementation of obligations pursuant to United Nations Security Council resolutions. It deplored the DPRK's cessation of all cooperation with the Agency, endorsed the actions taken by the Board of Governors and commended the impartial efforts of the Director General and the Secretariat to apply comprehensive safeguards in the DPRK. It stressed the desire for a diplomatic resolution of the DPRK nuclear issue, with the aim of achieving the complete, verifiable and irreversible denuclearization of the Korean peninsula. It also expressed support for the six-party talks process and called on the DPRK to return immediately and without preconditions to that process. Finally, it called on the DPRK to come into full compliance with the NPT and to cooperate promptly with the Agency in the full and effective

implementation of comprehensive safeguards. The draft resolution was supported by the five Member States which were party to the six-party talks and Canada hoped that it would be adopted by consensus.

32. Mr CODORNIU PUJALS (Cuba) pointed out that, on the preceding day, opposition had been voiced to examining a resolution on the grounds that the Conference should not single out one country. However, no such opposition had been voiced in the current instance. His country deplored such double standards.

33. Although his country understood that the issue was a complicated and delicate one, it would have liked to discuss the proposed amendment to the draft resolution, with the aim of underscoring the need to work more vigorously toward the total elimination of nuclear weapons. It reaffirmed its conviction that only the total elimination of nuclear weapons and nuclear tests could genuinely contribute to guaranteeing international peace and security.

34. Cuba supported the denuclearization of the Korean Peninsula and firmly believed that diplomacy and peaceful dialogue should continue with a view to achieving a long-term solution to the Korean nuclear issue.

35. It thereby reaffirmed its position on nuclear disarmament and underlined its concern at the threat to humanity posed by the continued existence of nuclear weapons and their possible use or threat of use. His country continued to be deeply concerned that the States which possessed such weapons were not making progress toward disarmament and the total elimination of their nuclear weapons.

36. He appealed to the nuclear-weapon States to fulfil immediately their obligations under Article VI of the NPT and to accelerate implementation of the measures agreed upon at the 1995 and 2000 NPT Review Conferences in that regard, in particular the 13 practical steps agreed upon at the 2000 NPT Review Conference.

37. Cuba would have liked to see the amendment adopted because it would have made the resolution more balanced. However, it did not wish to break the consensus.

38. Mr DANIELI (Israel) said that his country supported the draft resolution contained in document GC(53)/L.4.

39. The DPRK's reckless conduct called for the strongest possible condemnation and action by the international community. Its non-compliance with its safeguards agreement, its decision to cease all cooperation with the Agency, its continued defiance of United Nations Security Council resolutions, and its second nuclear test earlier in 2009 were deplorable and posed a grave threat to international security and to the non-proliferation regime.

40. Such activities also had dangerous implications for the Middle East region, where the DPRK was a major proliferator and supplier of ballistic missiles to rogue countries. For example, the DPRK's assistance to Syria's covert nuclear programme was still awaiting full investigation by the Agency. Its recent nuclear test and missile tests highlighted the importance of determined, concerted action by the international community. That would also send the right message to habitual violators in the Middle East concerning their international commitments and obligations in the nuclear domain.

41. Mr OTHMAN (Syrian Arab Republic) said it was indeed surprising that a State which was not a member of the NPT and which had no safeguards agreement should lecture others on how they should conduct their international relations. Such statements should be made by countries that complied with international conventions.

42. The PRESIDENT took it that the Conference wished to adopt the draft resolution contained in document GC(53)/L.4 without a vote.

43. It was so decided.

44. Mr SHIM Yoon-Joe (Republic of Korea) said that, since the preceding General Conference, international efforts to bring about the verifiable denuclearization of the Korean Peninsula had faced a series of challenges caused by provocative actions on the part of the DPRK. The DPRK had violated the six-party talks agreements and relevant United Nations Security Council resolutions not only through its nuclear test in May, but also through the launch of a long-range rocket in April and ballistic missiles in July. Furthermore, it had sent a letter earlier that month to the President of the Security Council in which it had defiantly asserted that it would continue developing its nuclear capabilities. Such actions were a blatant challenge to the international community.

45. The adoption of Security Council Resolution 1874 (2009), which had condemned the DPRK's nuclear test in the strongest terms and had reinforced the sanctions regime already in place against that country, had clearly demonstrated the united and resolute will of the Security Council and the international community to halt the DPRK's nuclear development and nuclear proliferation activities. His country believed that all nations should send an unequivocal message to the DPRK by fully implementing the obligations imposed by that resolution.

46. The resolution just adopted by consensus was another firm message from the international community to the DPRK. His country expected that the resolution would contribute to the DPRK's realization that its nuclear ambitions would not be tolerated by the international community. It was imperative that the DPRK promptly return to the six-party talks, that it abandon all nuclear weapons and existing nuclear programmes in a complete, verifiable and irreversible manner in accordance with the September 2005 Joint Statement, and that it return to the NPT regime and comply with its international obligations and all its commitments.

47. The Agency had an essential role to play in that process and his country would cooperate closely with relevant countries and the Agency with a view to achieving a peaceful resolution of the DPRK nuclear issue and establishing peace and stability in north-east Asia.

**The meeting rose at 5.15 p.m.**