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Communication de la mission permanente de la République populaire de Chine auprès de l'Agence

1. Le 26 mai 2025, le Secrétariat a reçu de la mission permanente de la République populaire de Chine auprès de l'Agence une note verbale, accompagnée d'une pièce jointe.
2. Conformément à la demande qui y est formulée, la note verbale et sa pièce jointe sont reproduites ci-après pour l'information de tous les États Membres.

MISSION PERMANENTE DE LA RÉPUBLIQUE POPULAIRE DE CHINE
AUPRÈS DE L'OFFICE DES NATIONS UNIES
ET DES AUTRES ORGANISATIONS INTERNATIONALES
À VIENNE

N° CPMV/2025/91

La mission permanente de la République populaire de Chine auprès de l'Office des Nations Unies et des autres organisations internationales à Vienne présente ses compliments au Secrétariat de l'Agence internationale de l'énergie atomique et a l'honneur de lui présenter ci-après le résumé de l'atelier intitulé « AUKUS : nouveaux défis pour les garanties de l'AIEA », qu'elle a organisé le 24 avril 2025 au Centre international de Vienne.

La mission permanente de la Chine espère que la présente note et le résumé qui l'accompagne seront dûment distribués en temps voulu à l'ensemble des États Membres, sous la forme d'une circulaire d'information.

La mission permanente de la République populaire de Chine auprès de l'Office des Nations Unies et des autres organisations internationales à Vienne saisit cette occasion pour renouveler au Secrétariat de l'AIEA l'assurance de sa très haute considération.

[sceau]

Vienne, le 23 mai 2025

Secrétariat de l'AIEA

Résumé du Président¹

AUKUS : nouveaux défis pour les garanties de l'AIEA

Atelier organisé par la mission permanente de la Chine

VIC CR-3 : 24 avril 2025

Note : Le résumé qui suit a été établi dans le souci d'informer le Conseil des gouverneurs qui se réunira en juin 2025 ainsi que pour faciliter un processus de discussion intergouvernemental sur le programme de sous-marins nucléaires de l'alliance AUKUS dans le cadre de l'AIEA, et ce afin de faire mieux comprendre aux États Membres la sensibilité et la complexité des questions de garanties concernant l'application de l'article 14 de l'accord de garanties généralisées (INFCIRC/153/Corr.).

Le 24 avril 2025, un atelier intitulé « *AUKUS : nouveaux défis pour les garanties de l'AIEA* » a été organisé par la mission permanente de la Chine au Centre international de Vienne (on trouvera en pièces jointes son ordre du jour ainsi que les présentations complètes des intervenants). L'événement a réuni plus de 80 participants, dont des représentants de 33 États Membres de l'AIEA – parmi lesquels des ambassadeurs de 17 missions – ainsi que des experts issus de groupes de réflexion spécialisés dans le domaine de la maîtrise des armements et de la non-prolifération.

Au vu des discussions tenues lors des ateliers organisés ces deux dernières années par la mission permanente de la Chine au sujet du programme AUKUS, il a été décidé de s'intéresser cette année à divers aspects de la coopération proposée concernant les sous-marins nucléaires dudit programme et sur ce qu'elle implique pour le régime de garanties généralisées de l'AIEA. Quatre intervenants ont présenté des exposés à titre personnel, assortis d'un certain nombre d'observations et d'appréciations :

- M. Tariq Rauf, ancien chef de la Section de la coordination des politiques de vérification et de sécurité, Bureau faisant rapport au Directeur général de l'AIEA ;
- M. Anton Khlopkov, directeur du Centre des études sur l'énergie et la sécurité, à Moscou ;
- M. Guo Xiaobing, chargé de recherche principal à l'Institut chinois des relations internationales contemporaines ;
- M. Noah Mayhew, directeur de recherche au Centre de Vienne pour le désarmement et la non-prolifération.

Cinq autres experts et chercheurs universitaires, invités en tant qu'observateurs présents à titre personnel, ont apporté d'importantes contributions aux débats :

- S. E. Bassem Hassan, ancien directeur du désarmement et des utilisations pacifiques de l'énergie atomique au Ministère égyptien des affaires étrangères ;
- M. Nikolai Khlebnikov, représentant russe auprès du Groupe consultatif permanent de l'AIEA sur l'application des garanties, ancien directeur de la Division de l'appui technique de l'AIEA ;
- M. Naeem Ahmad Salik, directeur exécutif de l'Institut de vision stratégique, à Islamabad ;
- M. Valery Bytchkov, ancien chef de la Section des opérations et chef de la Section de l'évaluation de l'efficacité du Département des garanties ;
- M. Zhao Xuelin, chercheur associé à l'Institut chinois de stratégie de l'industrie nucléaire.

¹ Ce résumé est uniquement destiné à des fins d'information ; il reflète les principaux sujets soulevés et les domaines de discussion en rapport avec le thème annoncé, et ne vise pas à obtenir l'accord de tous les participants ni ne prétend à l'exhaustivité.

M. Ionut Suseanu, chef de la Section de la non-prolifération et des organes directeurs au Bureau des affaires juridiques de l'AIEA, a présenté, au nom du Secrétariat de l'AIEA, les aspects juridiques des points inscrits à l'ordre du jour de l'atelier. Il a pris part aux discussions et a répondu aux questions posées par les participants.

Au cours de cet atelier, les intervenants et observateurs ont mis en avant un certain nombre de points, que le président a récapitulés comme suit.

1. Le programme de sous-marins nucléaires de l'alliance AUKUS est un programme entièrement nouveau et unique en son genre, en ce qu'il implique le transfert à grande échelle d'uranium hautement enrichi de qualité militaire entre des États dotés d'armes nucléaires et un État non doté de telles armes, en dehors des garanties de l'AIEA. À l'instar de ce qui distingue un tigre d'un chat ou une pomme d'une orange, les différences entre le programme AUKUS et l'utilisation pacifique de l'énergie nucléaire, ainsi qu'entre les garanties AUKUS et les autres garanties internationales, sont manifestes et il serait à la fois trompeur et dangereux de les ignorer. Ces différences ont suscité de vives inquiétudes quant à l'interprétation et à l'application de l'article 14, ce qui pourrait avoir des répercussions sur la crédibilité, la cohérence et l'universalité du régime de garanties généralisées de l'AIEA.

2. L'article 14 n'ayant jamais été appliqué dans la pratique, son interprétation et son éventuelle mise en œuvre pourraient comporter un risque systémique susceptible d'affecter les droits et intérêts de tous les États Membres. Il est donc essentiel que tous les États Membres participent sur un pied d'égalité aux processus de discussion et de décision. Dans le même temps, les États Membres et le Conseil des gouverneurs partagent la responsabilité collective de préserver l'autorité, la crédibilité et l'efficacité du régime international de non-prolifération, consacré dans le Traité sur la non-prolifération des armes nucléaires (TNP) et dans le régime de garanties généralisées de l'AIEA qui y est associé.

3. L'AIEA n'a aucune expérience en matière d'application des garanties aux sous-marins nucléaires, et d'importantes difficultés techniques subsistent pour déterminer quelles mesures de contrôle et quelles dispositions relatives au programme AUKUS de sous-marins nucléaires permettraient d'atteindre les objectifs du régime de garanties de l'Agence. (Plusieurs de ces difficultés sont exposées dans la partie III du présent résumé.) Aussi les partenaires de l'alliance AUKUS sont-ils instamment invités à respecter les principes de transparence et de responsabilité auxquels ils se sont engagés à se conformer en communiquant toutes les informations nécessaires au Directeur général, qui les transmettra ensuite au Conseil et aux États Membres.

4. La constance est la pierre angulaire de la crédibilité de l'AIEA et de son régime de garanties. La tenue entre les États Membres de consultations ouvertes et sans exclusive constitue par conséquent une impérieuse nécessité, afin de veiller à ce que tous se voient appliquer des règles, des procédures et des normes claires, transparentes et uniformes, à présent comme à l'avenir.

5. Le Conseil des gouverneurs, ainsi que le prévoit le mandat qui lui est conféré par le Statut de l'AIEA, est habilité à exercer les fonctions de l'Agence. La transparence – de même que les nécessaires informations et précisions fournies par les partenaires AUKUS et le Secrétariat – est à cet égard essentielle pour faciliter un dialogue ouvert à tous, favoriser la compréhension mutuelle entre le Conseil et les États Membres, et faire en sorte que les décisions relatives aux questions portant sur le programme AUKUS de sous-marins nucléaires soient prises de manière éclairée, équilibrée et appropriée.

6. Il serait bon que les États Membres de l'AIEA et le Secrétariat songent à mettre sur pied des forums ou à faire appel aux organes compétents pour s'entendre sur une interprétation commune des accords de garanties visés à l'article 14. Ces discussions pourraient prendre la forme de réunions d'experts techniques internationaux indépendants, de concertations avec le Groupe consultatif

permanent sur l'application des garanties (SAGSI), ou encore de réunions d'information et de réunions techniques organisées par le Secrétariat dans le cadre du programme AUKUS de sous-marins nucléaires. Il est indispensable que toutes les parties concernées et les États Membres intéressés soient associés à ces efforts afin de garantir la transparence, de s'assurer que nul ne soit exclu et de recueillir un large consensus.

7. Il faut absolument maintenir un dialogue cohérent, ouvert et transparent entre les États Membres, les partenaires de l'alliance AUKUS, le Secrétariat et les experts sur les aspects juridiques, procéduraux et techniques liés aux garanties du programme AUKUS de sous-marins nucléaires. Il est à espérer, à cet égard, que les partenaires AUKUS continueront à participer activement aux ateliers de suivi et aux discussions y relatives, et contribueront ainsi à éclairer toutes les parties prenantes dans leur réflexion et à favoriser leur compréhension mutuelle.

Des opinions et préoccupations diverses ont été exprimées au cours de l'atelier, soulignant plus encore la complexité du programme AUKUS de sous-marins nucléaires et la controverse qu'il suscite.

1. De nombreux participants ont mis en avant que l'interprétation et la mise en œuvre de l'article 14, ainsi que les mesures de contrôle et les dispositions relatives aux sous-marins nucléaires, devraient être abordées dans le cadre d'un processus consultatif, ouvert et transparent. Cette approche est jugée cruciale pour obtenir un large soutien et gagner la confiance des États Membres et pour ne pas compromettre l'intégrité du régime de garanties de l'AIEA. Aussi a-t-il été suggéré que, conformément aux pratiques établies, le Conseil mette sur pied un groupe de travail à composition non limitée ou des comités spéciaux qui soient chargés d'examiner ces questions. D'aucuns ont indiqué que, compte tenu du contexte politique actuel, de tels groupes de travail ou comités spéciaux risquaient d'être politisés, ce qui pourrait entraver leur capacité à atteindre les objectifs visés.

2. S'agissant de l'interprétation et de l'application de l'article 14, beaucoup ont fait remarquer que des termes tels que « activités militaires non interdites », « dispositions » ou « accords » se prêtaient à des interprétations diverses et que cela faisait bien longtemps que l'article en question n'a pas été invoqué. Par conséquent, il est suggéré que les États Membres et le Conseil engagent des discussions approfondies en vue, dans un premier temps, de parvenir à une interprétation commune. Certains ont estimé que, dans la mesure où le Conseil autorisait le Directeur général à conclure et mettre en œuvre des accords de garanties généralisées (AGG), tout différend relatif à leur interprétation ou à leur application devrait être réglé au moyen des mécanismes décrits aux articles 20-22 des AGG, à savoir la concertation, la saisine du Conseil par les États parties concernés, l'arbitrage, etc.

3. En ce qui concerne les accords de garanties pour les sous-marins nucléaires, il a été considéré, de l'avis général, que les objectifs des garanties devraient rester inchangés. De nombreux participants ont souligné qu'il faudrait éviter d'appliquer des réglementations différentes à des pays différents, surtout si cela risquait de compromettre le principe fondamental des garanties fondé sur le contrôle comptable des matières nucléaires. Aux yeux de certains, le terme « accord » renvoie généralement à des consultations entre le Secrétariat et un État sur la base d'un modèle déjà approuvé d'arrangement subsidiaire et de procédures de vérification. Il a dès lors été suggéré de commencer par instituer un cadre de garanties généralisées et applicables à de tels cas de figure. D'aucuns ont souligné que chaque installation nucléaire soumise aux garanties était unique et que la méthode et les mesures de contrôle varieraient en fonction de facteurs propres à l'État concerné et de l'analyse des voies d'acquisition.

4. En ce qui concerne le rôle du Secrétariat, il a été recommandé qu'il collabore étroitement avec les États Membres pour faciliter les discussions sur les questions de garanties liées aux sous-marins nucléaires. Quelques participants ont fait valoir que le Secrétariat de l'AIEA disposait peut-être des

capacités techniques nécessaires à l'établissement de méthodes de contrôle pour le programme AUKUS de sous-marins nucléaires et autres programmes similaires, et que, dans le cadre des accords de garanties généralisées, il pourrait établir de tels accords à la faveur de consultations bilatérales avec les parties concernées. D'autres participants ont indiqué qu'ils n'étaient pas de cet avis. Ils ont souligné que le Secrétariat de l'AIEA n'avait jamais été amené à appliquer des garanties à des sous-marins nucléaires et que les pratiques existantes n'étaient pas suffisantes pour traiter ce cas de figure inédit. Ils ont en conséquence invité le Secrétariat à tenir dûment compte du caractère sensible et controversé de la question et à veiller à ce que les inquiétudes et opinions des États Membres soient pleinement prises en considération.

5. Au sujet de la nécessité de protéger les informations classifiées et d'atteindre les objectifs des garanties, certains ont déclaré que le Secrétariat devait se conformer rigoureusement aux obligations de confidentialité propres à l'AGG et était tenu d'appliquer les mêmes normes de confidentialité à toutes les informations sur les garanties portées à sa connaissance dans le cadre de la mise en œuvre des accords de garanties. Des discussions ont lieu avec tous les États sur les questions ayant trait aux garanties au titre de leurs accords respectifs. D'autres ont attiré l'attention sur le fait qu'en l'absence d'informations suffisantes, le Conseil et les États Membres n'étaient pas en mesure de prendre une décision. Il a été suggéré que le Secrétariat élabore, à partir de sources d'information librement accessibles, un document général sur les mesures de contrôle applicables aux sous-marins nucléaires, afin de permettre aux États Membres de mieux appréhender cette question complexe. Il a en outre été proposé que le Secrétariat envisage de recourir à des méthodes telles que la limitation des flux d'information qui puissent offrir un juste équilibre entre des garanties efficaces et la protection des informations classifiées.

6. Pour ce qui est des mesures que le Conseil des gouverneurs devrait prendre en réponse à d'éventuels accords de garanties pour le programme AUKUS de sous-marins nucléaires, il est généralement admis que c'est à lui d'en décider en dernier ressort. D'aucuns se sont inquiétés des changements apportés dans l'édition 2022 du Glossaire des garanties concernant les accords au titre de l'article 14, le libellé prévoyant que « tout accord de ce type serait soumis au Conseil des gouverneurs de l'AIEA pour approbation préalable » ayant été remplacé par « tout accord ... sera signalé au Conseil des gouverneurs de l'AIEA ». Certains ont estimé que le Secrétariat pouvait uniquement soumettre des rapports au Conseil et n'avait pas le pouvoir de prescrire des mesures spécifiques, et qu'il appartenait audit Conseil de déterminer ce qu'il y avait lieu de faire. Il a été souligné que le Glossaire était un document d'orientation technique qui n'avait pas de statut juridique et ne constituait pas le document de base pour l'interprétation des droits et obligations des parties (Agence et État(s)) établis en vertu des accords de garanties existants. Certains ont par ailleurs suggéré qu'il faudrait que le Conseil examine les accords de garanties dans leur ensemble plutôt que de négocier les différents aspects de tel ou tel accord lors de ses réunions.

Les divergences de vues susmentionnées mettent en lumière l'importance et la nécessité d'un processus de discussion intergouvernemental complet, transparent et sans exclusive concernant le programme AUKUS de sous-marins nucléaires. Soulevées et examinées au cours des ateliers organisés durant les trois dernières années, les questions ci-après appellent une réflexion et une discussion plus approfondies, auxquelles tous les États Membres intéressés de l'AIEA sont invités à participer.

- Le pays fournisseur acceptera-t-il de vérifier la quantité et la qualité des matières nucléaires avant que celles-ci ne soient chargées dans le réacteur d'un sous-marin nucléaire AUKUS ?
- Si un pays disposant des installations du cycle du combustible nucléaire décidait de construire ses propres sous-marins nucléaires, les voies potentielles de détournement de matières

nucléaires seraient-elles plus nombreuses ou plus complexes que pour les sous-marins de l'alliance AUKUS ?

- L'AIEA n'ayant aucune expérience en matière d'application des garanties à des sous-marins nucléaires, est-il nécessaire d'évaluer systématiquement la faisabilité et l'efficacité des mesures pertinentes ?
- Qui jouit du droit ou de l'autorité permettant de se prononcer sur l'interprétation de l'article 14 ? Le Secrétariat de l'AIEA a-t-il autorité pour interpréter les dispositions du TNP sans la participation des États Membres ? En a-t-il le mandat ?
- Qu'est-ce qu'une « activité militaire non interdite » ? Qu'entend-on par « l'Agence » ? Quelle est la différence entre les termes « arrangement » et « accord » utilisés à l'article 14 ?
- Comment les garanties et les mesures de vérification peuvent-elles être appliquées aux sous-marins nucléaires lorsqu'ils opèrent en mer ?
- Le risque d'accident en mer sera-t-il pris en compte lors de l'établissement des accords de garanties qui concernent des sous-marins nucléaires ?
- Quelle incidence le programme AUKUS de sous-marins nucléaires aura-t-il sur les zones exemptes d'armes nucléaires établies en vertu du Traité de Rarotonga et du Traité de Bangkok ?
- Pourquoi le Conseil et les États Membres n'ont-ils pas joué un rôle moteur dans l'élaboration d'une politique et d'une interprétation technique relatives à l'article 14 ?
- Quels pourraient être les méthodes de contrôle crédibles et les objectifs techniques des garanties connexes pour les sous-marins utilisant de l'UHE pour leur propulsion nucléaire navale ?
- L'application de l'article 14 a-t-elle un impact sur la capacité de l'AIEA à tirer une « conclusion plus large » ?
- Qui déciderait de ce qui relève de la connaissance de secrets militaires ayant trait à cette activité ? Sur quels critères se fonderait-on ?
- Quelles seraient la portée et la teneur des arrangements relatifs à l'établissement de rapports concernant la « non-application des garanties » aux « activités militaires non interdites » ?
- Quel appui les États Membres intéressés pourraient-ils apporter au Directeur général et au Secrétariat pour faciliter les consultations et les réunions d'information techniques sur les questions d'interprétation et de mise en œuvre de l'article 14 ?
- Quel rôle le Secrétariat devrait-il jouer pour faciliter le processus d'examen intergouvernemental concernant le programme AUKUS de sous-marins nucléaires ?
- L'accord de garanties relatif aux sous-marins nucléaires de l'alliance AUKUS constituera-t-il un précédent et servira-t-il de modèle à d'éventuelles futures collaborations de même nature ?

Concept Note

AUKUS: New Challenges to the IAEA Safeguards

The AUKUS nuclear submarine cooperation marks the first time in history for Nuclear-Weapon States to transfer nuclear powered submarine reactors and weapons-grade highly enriched uranium to a Non-Nuclear-Weapon State, setting an unique precedent with significant new challenges to the IAEA safeguards system, and the international nuclear non-proliferation regime with the NPT as its cornerstone. Australia's request to commence negotiations with the Agency on an arrangement required under Article 14 of the Comprehensive Safeguards Agreement (CSA) is unprecedented, and involves a series of controversial issues.

Looking back through the development of IAEA Safeguards practice, drafting and subsequent changes and amendments, interpretations and practices of Agency safeguards agreements traditionally have been considered in consultations involving all interested IAEA Member States on basis of consensus and inclusiveness within the Agency's statutory responsibilities. Safeguards agreements reached between Member States and the Agency have also been endorsed by the Board by consensus.

Thus far, no Member State with a CSA in force has concluded "an arrangement" pursuant to Article 14 of INFCIRC/153 (Corr.), nor has any such arrangement been presented to the Board for its consideration. Considering that AUKUS involves a series of complex factors including the transfer of weapons-grade nuclear materials, it will definitely have a profound impact on the development of IAEA safeguards, the applicability of Article 14 is therefore highly controversial.

Since November 2021, the Agency's Board of Governors and the General Conference have put "Transfer of the nuclear materials in the context of AUKUS and its safeguards in all aspects under the NPT" on the agenda of their meetings for Seventeen times. During the discussion process, various concerns, ideas and positions were expressed by Member States. This fully demonstrates the importance and necessity of continuing this intergovernmental discussion process among IAEA Member States.

With a view to preserving the international nuclear non-proliferation regime, this workshop will provide a platform for an open and inclusive discussion on various aspects of the AUKUS nuclear submarine cooperation, in correlation with IAEA safeguards tradition and CSA Article 14, so as to contribute to the on-going discussion within the IAEA.

AUKUS: New Challenges to the IAEA Safeguards

Conference Room-3, VIC April 24th 2025

- 14:00 ● Opening remarks by the Moderator
- 14:05 ● Introductory remarks by H.E. Ambassador Li Song
- Thematic discussions:
- 14:20 **IAEA safeguards tradition: why consensus and inclusiveness matters?**
 Panelist: Mr. Tariq Rauf, *Former Head of the Verification and Security Policy Coordination Office of the IAEA*
- 14:35 Q&A session
- 14:55 **AUKUS and its transfer of weapon-grade nuclear material: new practice as well as its impact to the IAEA Safeguards.**
 Panelist: Mr. Guo Xiaobing, *Senior Fellow of the China Arms Control and Disarmament Association*
- 15:10 Q&A session
- 15:30 ● Tea break
- Thematic discussions (continued):
- 15:50 **Article 14: differences between AUKUS and routine implementation of IAEA comprehensive safeguards. How to preserve non-discriminatory and universally applicable safeguards approaches, safeguards objectives, and safeguards measures in conformity with the Agency's safeguards system as approved by the Board of Governors and Member States?**
 Panelist: Mr. Noah Mayhew, *Senior Research Associate, Vienna Center for Disarmament and Non-Proliferation*
- 16:05 Q&A session
- 16:25 **Developing an effective and non-discriminatory IAEA safeguards regime on AUKUS: contributions from the Secretariat, Board of Governors and Member States.**
 Panelist: Mr. Anton Khlopkov, *Director of the Center for Energy and Security Studies*
- 16:40 Q&A session
- 17:00 ● Conclusion by the Moderator

Briefing for Governors and Permanent Representatives Accredited to the IAEA

THE EXISTENTIAL CHALLENGE TO IAEA SAFEGUARDS: *Policy Factors > Naval Nuclear Propulsion IAEA Practice on Safeguards Development*

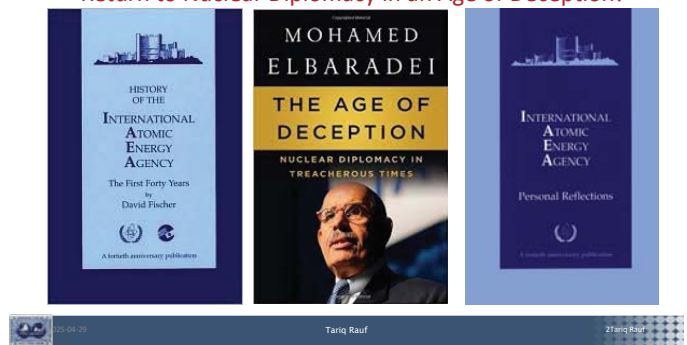


Tariq Rauf
Vienna: 24 April 2025



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Return to Nuclear Diplomacy in an Age of Deception!



Conflict of interest and Funding

- The author has declared no conflict of interest
- No IAEA Member State has influenced the findings of this project
- No financial support for this project has been sought nor received from any source whatsoever

Tariq Rauf: 2025-04-29

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Notate bene

- 1) The views expressed in this presentation do **not** reflect those of the IAEA Secretariat – the views are those of the presenter for purposes of information and discussion ...
- 2) The IAEA is a complex international technical organization with a Statutory mandate for nuclear verification supplemented by a broad NPT mandate for CSAs in NNWS party to the NPT with the express agreement of NPT States Parties and Member States of the Agency ...

Tariq Rauf: 2025-04-29

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Notate bene

- 3) The Director General makes policy informed by technical inputs from the Safeguards Department and legal opinions from the Office of Legal Affairs (OLA). Without prejudice to OLA's integrity, legal opinions are not policy – they are just that, opinions and the policy maker can take account of them or not...
- 4) The standard normal practice for the Secretariat during the tenure of DG ElBaradei was to be pro-active on controversial matters as well as on matters on which Member States expressed questions or concerns, especially concerning safeguards...

Tariq Rauf: 2025-04-29

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Notate bene

- 5) The practice continued to some extent during the first half of the first term of DG Amano....
- 6) For example the Secretariat issued information Notes and conducted technical briefings on matters such as Safeguards Implementation Report, Integrated Safeguards, Small Quantities Protocols (rescission), State Level Approach ... in certain cases the Secretariat was pro-active in approaching concerned Member States to provide relevant questions that the Secretariat could respond to in writing and/or through consultations...

Tariq Rauf: 2025-04-29

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Notate bene

- 7) My Office of Verification and Security Policy Coordination maintained an open door policy to facilitate receiving and responding to Member States' concerns and questions on safeguards and nuclear security matters, on a pro-active basis....
- 8) Consultations could include staff from the Safeguards Department and Legal Affairs, if required

Tariq Rauf: 2025-04-29

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Notate bene

- 9) For example, with regard to the proposal on rescission or amendment of SQPs, on a pro-active basis Member States were approached for their views....
- 10) Open-ended consultations were convened with Ambassador Jacek Bylica (Poland) serving as facilitator/chair

Tariq Rauf: 2025-04-29

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Notate bene

- 11) After fulsome consultations resulting in a report by Ambassador Bylica, the Secretariat put up the matter to the Board to authorize the Director General to proceed with rescission / amendments to the SQPs in force ...
- 12) It was not a matter of "appropriate action" or "reporting", but of "approval" – "appropriate action" is an unfamiliar and contrived inexact term first used in GOV/INF/347 in 1978...

Tariq Rauf: 2025-04-29

9

Decisions by the Board: Practice



Take Note = the Board takes Note that means that the Board has given its assent or acceptance by "Taking Note"

Approve = the Board *approves* the texts of Safeguards Agreements between the IAEA and a State, prepared and submitted by the Secretariat to the Board for its "**Approval**" and for the Board to "**Authorize**" the Director General to conclude said Agreements

"For appropriate action" = a *non sequiter* > I cannot find a precedent for the Secretariat requesting such an action or decision by the Board > it could be considered as an imprecise formulation....the Board has long precedent of "taking note" and "approving" or "authorizing" as described above ...

Tariq Rauf

2025-04-29

10

Naval Nuclear Propulsion: The Way Forward

What actions can Member States and the Board consider:

1. Member States could request the Board Chair to consult Board Members, and interested Member States in open-ended consultations informally or by setting up a committee > **Statute Article VI.F** "*The BoG shall have authority to carry out the functions of the Agency*" and **Article VI.I**: "*The BoG may establish such committees as it deems advisable*"

Tariq Rauf: 2025-04-29

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Naval Nuclear Propulsion: The Way Forward

2. Member States (MS) could request the Director General to prepare a detailed generic technical report on the implementation implications of Article 14 of INFCIRC/153 and Article 13 of INFCIRC/435
3. MS could initiate informal consultations to consider the feasibility of rescission or amendment of Article 14 of INFCIRC/153 and Article 13 of INFCIRC/435 to restore Agency safeguards procedures – a half century after the initial negotiation of INFCIRC/153 that was in a very different international situation from the current of strengthened safeguards

Tariq Rauf: 2025-04-29

12

Naval Nuclear Propulsion: The Way Forward

4. Member States could consider examining the matter of technical aspects of naval nuclear propulsion and non-application of safeguards in a Scientific Forum of the General Conference

5. Member States could provide their technical assessments on implementation of INFCIRC/153 Article 14 to the Secretariat and discuss in a Topical Meeting

Tariq Rauf: 2025-04-29

13

Naval Nuclear Propulsion: The Way Forward

What actions can Member States party to the NPT consider?

NPT Member States could examine the matter of technical aspects of naval nuclear propulsion and non-application of safeguards in Specific Time under Cluster II issues at the NPT PrepCom and in Subsidiary Body 2 under Main Committee II at the 2026 NPT Review Conference – a half century after the negotiation of INFCIRC/153 the international situation was much different from the current one, which is that of strengthened safeguards based on credible verification measures and conclusions

Tariq Rauf: 2025-04-29

14

Recent Developments

The following are some developments since the previous event on this matter was held at the VIC on 19 May 2024 and reported to Member States through IAEA document INFCIRC/1213 dated 29 May 2024...

Tariq Rauf: 2025-04-29

15

Naval Nuclear Propulsion (Indonesia and UNIDIR) NPT PrepCom Side Event, Geneva: 25 July 2024



Presentations: Indonesia, Australia, Brazil and UNIDIR

Indonesia: general introduction

Australia: same statement as given in Vienna:

Brazil: statement on Brazil's indigenous naval nuclear submarine acquisition programme > Quadripartite Agreement Article 13 > LEU fuel non-application of comprehensive safeguards

UNIDIR: ...

Tariq Rauf

2025-04-29

Naval Nuclear Propulsion (Indonesia and UNIDIR) NPT PrepCom Side Event, Geneva: 25 July 2024



Presentations: Indonesia, Australia, Brazil and UNIDIR

Australia: same statement as given in Vienna (Excerpts):

"We are committed to concluding an arrangement under Article 14 that will enable the IAEA to continue to fulfil its technical objectives at all stages of Australia's submarines' lifecycle, and to provide confidence to the international community on the non-diversion of nuclear material..."

We remain concerned that a preoccupation with dictating a uniform, one-size-fits-all approach to implementing IAEA safeguards might hamper the IAEA's ability to meet its technical objectives...

In fact, given state-specific variations between naval nuclear propulsion programs, we strongly doubt that such an approach would even be feasible for enabling the IAEA to achieve all of its technical objectives...

When our Article 14 arrangement comes before the Board of Governors, in the fullness of time, we expect it to be judged on its non-proliferation merits. In other words, on whether it enables the IAEA to fulfil its technical objectives..."

Tariq Rauf

2025-04-29

"Misinformation and Disinformation about AUKUS" NPT Side Event, Geneva: 26 July 2024 Australia, United Kingdom, United States



Statement by on AUKUS party: The transfer of highly enriched uranium from a nuclear-weapon State to a non-nuclear-weapon State is not a violation of the NPT **Several nuclear- weapon States**, including the United States, the former Soviet Union, the People's Republic of China, and Russia (as an independent nation) have **transferred highly enriched uranium fuel to non-nuclear weapon States for use in nuclear reactors** – just as it will occur under AUKUS ... Nothing about the enrichment level, the quantity, or any other technical parameter equates reactor fuel with a nuclear-weapon under the NPT or prohibits the transfer of enriched nuclear material of any enrichment level...

Tariq Rauf

2025-04-29

"Misinformation and Disinformation about AUKUS"
NPT Side Event, Geneva: 26 July 2024
Australia, United Kingdom, United States



Statement by AUKUS party: The transfer of highly enriched uranium from a nuclear-weapon State to a non-nuclear-weapon State is not a violation of the NPT Several nuclear- weapon States have transferred highly enriched uranium fuel to non-nuclear weapon States for use in nuclear reactors – just as it will occur under AUKUS ...

MY COMMENT/Reality: Correct as far as it goes, but the Statement neglects to mention one critical parameter >> that all such transfers of HEU from a NNWS to a NNWS – before or after the advent of the NPT – were under safeguards >> bilateral prior to NPT, and CSA under the NPT ... LEU/HEU transfers to a NNWS for naval nuclear propulsion will NOT be under safeguards ...

Tariq Rauf

2025-04-29

"Misinformation and Disinformation about AUKUS"
NPT Side Event, Geneva: 26 July 2024
Australia, United Kingdom, United States



Statement by AUKUS party: Some Member States have claimed a tradition or principle that all new safeguards approaches have been developed in a consensus approach by the Board of Governors and that, as such, that precedent requires an intergovernmental process. Firstly, this claim is false....

Tariq Rauf

2025-04-29

Record of Agency practice on safeguards evolution



MY COMMENT/reality: The record shows that matters concerning the formulation of safeguards approaches and measures: Agency's Safeguards System – INFCIRC/3 (24 Mar 1959); INFCIRC/26 (31 Jan 1961); INFCIRC/26/Add.1 (26 Feb 1964); INFCIRC/66 (28 Sep 1965); INFCIRC/66/Rev.1 (1966); INFCIRC/66/Rev.2 (16 Sep 1968); INFCIRC/153/Corr. (1 June 1972); SQP (1973); Programme 93+2; INFCIRC/540 (Sep 1997); SQP Rescission (2005) >> all were agreed through a process involving consultations and negotiations with Member States >> all approved by the Board

Tariq Rauf

2025-04-29

Reality



THE AGENCY'S SAFEGUARDS SYSTEM
(1963, AS PROVISIONALLY EXTENDED IN 1966 AND 1968)

- The Agency's safeguards system, as approved by the Board of Governors in 1963, and provisionally extended in 1966 and 1968, is set forth in this document for the information of all Member States.
- The development of the system from 1963 onwards has been as follows:

System	Name	Set forth in document
The first system	The Agency's Safeguards System (1963)	INFCIRC/26
The 1963 system as extended to cover large reactor facilities	The Agency's Safeguards System (1963), as Extended to (1964)	INFCIRC/26 and AEL1
The revised system	The Agency's Safeguards System (1965)	INFCIRC/66
The revised system with additional provisions for improving plans	The Agency's Safeguards System (1965) as Provisionally Extended to (1966)	INFCIRC/66/Rev.1
The revised system with further additional provisions for safeguarded nuclear material in conversion plants and fabrication plants	The Agency's Safeguards System (1965) as Provisionally Extended to 1966 and (1968)	INFCIRC/66/Rev.2

Tariq Rauf

2025-04-29

REALITY: The usual practice at the Agency in drafting and interpreting its fundamental obligatory and guidance documents is through open-ended and/or informal consultations involving all interested Member States...

Examples (re safeguards, 2020 Commission and MNAs):

- Committee 22 (1970-1972) for INFCIRC/153 Corr.
- Committee 24 (1993-1995) for 93+2 and INFCIRC/540
- MNA Expert Group (2004-2005) for INFCIRC/640
- Amendment or Rescission of SQPs (2005)
- Committee 25 on safeguards (2005-2006)
- CPPNM Amendment (2006)
- Technical meetings (ongoing)

Tariq Rauf: 2025-04-29

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Record of Agency practice on safeguards evolution



Committee 22: INFCIRC/153/Corr.

Programme "93 + 2"

Committee 24: Additional Protocol

Open-ended consultations: SQP Rescission (2005)

Committee 25: Strengthening safeguards

>> all were agreed through a process involving consultations and negotiations with Member States >> all approved by the Board

Secretariat/DG reports on Integrated safeguards, State Level Concept > revised taking into account concerns and comments of Member States

Tariq Rauf

2025-04-29



Board of Governors

GOV/INF/2007/31
Date: 13 May 2007

Restricted Distribution
Original: English



SECRETARIAT'S
INFORMATION PAPER
FOR MEMBER STATES
ON MNAs

**Possible New Framework for the Utilization of
Nuclear Energy: Options for Assurance of
Supply of Nuclear Fuel**

Report by the Director General

1. Following the September 2006 Special Event on Assurance of Supply and Assurance of Non-Proliferation, held during the 36th regular session of the General Conference, the Director General indicated at the November 2006 meeting of the Board of Governors that the Secretariat would prepare a report for the information of Member States outlining possible approaches for assurance of supply of nuclear fuel.

2. This report provides background information including the evolution of proposals received by the Secretariat to date concerning assurance of supply and international nuclear fuel centres, and describes some common themes for assurance of supply of nuclear fuel and fuel fabrication services and late possible criteria for assurance of supply. In addition, the report provides a commentary concerning possible international nuclear fuel centres and requests ideas for further work. The annex to the report contains an outline of the relevant provisions of the IAEA Statute, describes the current international nuclear fuel market, provides an analysis of some common themes within the proposals that have been received and reproduces copies of these proposals for ease of reference.

2025-04-29

Tariq Rauf



Board of Governors

GOV/INF/2007/31
Date: 13 May 2007

Restricted Distribution
Original: English



SECRETARIAT'S
INFORMATION NOTE
FOR MEMBER STATES
ON MNAs RESPONSES
TO QUESTIONS

Note by the Secretariat

Assurance of Supply

*Information from the IAEA Secretariat
with respect to the comments and questions of Member States*

A. Introduction

1. Proposals on assurance of supply made or supported by Member States have been under discussion in the IAEA context for several years. The Secretariat provided an informal technical briefing to Member States on the early proposals on 28 May 2007. The Board of Governors discussed these proposals at its meetings held on 19 June 2007 – the summary records of which are available in documents GOV/INF/1292 and 1293 – to the discussion at the meetings of the Board of Governors in June, September and November 2007 on the various proposals on assurance of supply of LEO.

2025-04-29

Tariq Rauf

**BRIEFING FOR MEMBER STATES ON MNAs
BY AGENCY'S MNA COORDINATOR**



**Multilateral Approaches to the Nuclear Fuel Cycle
and other proposals**

Tariq Rauf
*Head, Verification and Security Policy Coordination
(Scientific Secretary of the Expert Group on Multilateral Nuclear Approaches
(MNA) and of the 50th IAEA General Conference (Special Event):
New Framework for the Utilization of Nuclear Energy in the 21st Century:
Assurance of Supply and Non-Proliferation)*

Vienna, 6 February 2007



2025-04-29

Tariq Rauf

BRIEFING FOR MEMBER STATES



**Assurance of Supply
GOV/2006/30 and GOV/2006/31**

Tariq Rauf
*Head, Verification and Security Policy Coordination
(Office of Nuclear Reaction and Policy Coordination)
Informal Technical Briefing
Vienna 28 May 2007*



2025-04-29

Tariq Rauf

Technical Briefing

*"Practical and Technical Aspects of an
IAEA Low Enriched Uranium Bank."*

Date: Monday, 8th November 2010 – 10:30am to 12:00pm
Location: IAEA "M" building – Conference Room M-1

Presented to the IAEA 08 Nov 2010
Vienna, Austria
John Ritchie
James Cornell





2025-04-29

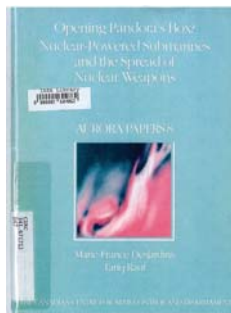
2025-04-29

Tariq Rauf

Notate bene

13. My then-colleague Marie-France Desjardins and I were the first to assess and report on the matter of nuclear-powered submarines (SSNs) and the possible impact on the Agency's safeguards system and the spread of nuclear weapons in our 1988 publication > cover on the next slide...

Canadian Centre for Arms Control and Disarmament (1988)



29/04/2025

Naval Nuclear Propulsion: NPT and IAEA Safeguards

Non-application of safeguards to nuclear material used in non-peaceful activities

“Loophole” in INFCIRC/153 (Corr.)?

29/04/2025

NON-APPLICATION OF SAFEGUARDS TO NUCLEAR MATERIAL TO BE USED IN NON-PEACEFUL ACTIVITIES

Article 14

If Australia intends to exercise its discretion to use nuclear material which is required to be safeguarded under this Agreement in a nuclear activity which does not require the application of safeguards under this Agreement, the following procedures shall apply:

- (a) Australia shall inform the Agency of the activity, making it clear:
 - (i) That the use of the nuclear material in a non-proscribed military activity will not be in conflict with an undertaking Australia may have given and in respect of which Agency safeguards apply, that the nuclear material will be used only in a peaceful nuclear activity; and
 - (ii) That during the period of non-application of safeguards the nuclear material will not be used for the production of nuclear weapons or other nuclear explosive devices;
- (b) Australia and the Agency shall make an arrangement so that, only while the nuclear material is in such an activity, the safeguards provided for in this Agreement will not be applied. The arrangement shall identify, to the extent possible, the period or circumstances during which safeguards will not be applied. In any event, the safeguards provided for in this Agreement shall apply again as soon as the nuclear material is reintroduced into a peaceful nuclear activity. The Agency shall be kept informed of the total quantity and composition of such unsafeguarded nuclear material in Australia and of any export of such nuclear material; and
- (c) Each arrangement shall be made in agreement with the Agency. Such agreement shall be given as promptly as possible and shall relate only to such matters as, inter alia, temporal and procedural provisions and reporting arrangements, and shall not involve any approval or classified knowledge of the military activity or relate to the use of the nuclear material therein.

- 8 -

Questions: NPT, INFCIRC/153

20 Aug 1987: Secretariat letter addressed to me:



Tariq Rauf

2025-04-29

Questions: NPT, INFCIRC/153

20 Aug 1987: Secretariat letter addressed to me:



“A number of the questions you have asked involve matters of judgement about the Non-Proliferation Treaty and the policy of the Canadian Government in relation to the Treaty. It would not be proper for individual staff members of the Agency to make comments or judgements in such political or policy areas, which could be interpreted as reflecting the view of the Agency and its secretariat as a whole. Nor is it proper for the Agency itself to take a position on legitimate national policy debates...”

- “How may one interpret this official 1987 IAEA statement and the Director General's 'supportive' statements on naval nuclear propulsion programmes of Member States (AUKUS and Brazil)?

Tariq Rauf

2025-04-29

Questions: Technical:

20 Aug 1987: Secretariat letter addressed to me:



- To the Secretariat's knowledge there is **no formal definition of "non-proscribed military activity"**. We understand that at the time of preparing INFCIRC/153 naval propulsion was commonly considered the *most likely use*. We also understand that most, if not all, participants in the Committee which prepared INFCIRC/153 favoured a narrow construction of the term "non-proscribed military activity", and that "processes such as enrichment or reprocessing to produce materials for use in such an activity would not themselves be considered as non-proscribed military uses and would therefore be subject to safeguards in the NNWS concerned" >> **who should address definitions regarding para.14?**

Tariq Rauf

2025-04-29

Questions: Technical:

GOV/INF/347 (1978) Director General



- No State Party to NPT has so far exercised the discretion referred to in paragraph 14. Accordingly, the Board of Governors has not had occasion to interpret that paragraph, nor has it elaborated in further detail the procedures to be followed pursuant to that paragraph...[GOV/INF/347]
- *Should not now the Board "interpret" Article 14 and elaborate the "procedures" to be followed....? Is it not urgent to do so...?*

Tariq Rauf

2025-04-29

Questions: NPT, INFCIRC/153:
20 Aug 1987: Secretariat addressed to me:



“The undertakings made by NNWS parties to the Treaty prohibit the use by NNWS of nuclear material for nuclear weapons or other nuclear explosive devices. They do not explicitly exclude or include the possibility of NNWS parties to the Treaty making use of nuclear material for other non-proscribed military purposes...”

Tariq Rauf

2025-04-29

Questions: Technical:
Article 14 – INFCIRC/153 Corr.



(c) Each arrangement shall be made in agreement with the Agency. The Agency's agreement shall be given as promptly as possible; it shall only relate to the temporal and procedural provisions, reporting arrangements, etc., but shall not involve any approval or classified knowledge of the military activity or relate to the use of the nuclear material therein

Tariq Rauf

2025-04-29

Questions: Technical:
Article 14 – INFCIRC/153 Corr.



(c) Each arrangement shall be made in agreement with the Agency. The Agency's agreement shall be given as promptly as possible... > does this imply that the “Agency” [Board, Member States, Secretariat] should have some role in drafting or negotiating the principles, procedure and practice of the “arrangement”?

Tariq Rauf

2025-04-29

Questions: Technical:
20 Aug 1987: Secretariat letter addressed to me:



IAEA: “To the Secretariat's knowledge **there is no formal definition of “non-proscribed military activity...”**”

A definition for the consideration and approval of the Board should be developed by whom?

- Secretariat?
- Member States with support of Secretariat?
- SAGSI?
- International panel of experts?
- States seeking to implement para. 14?

Tariq Rauf

2025-04-29

Notate bene

14. The Safeguards Glossary issued in 2022 has a revised description of INFCIRC/153 Corr. para.14 on “Non-application of safeguards to nuclear material to be used in non-peaceful activities” as compared to the 2001 edition > see following slides **But no explanation is provided by the Secretariat explaining the change and the necessity for it ...?**

Tariq Rauf: 2025-04-29

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Naval Nuclear Propulsion: NPT and IAEA Safeguards

IAEA Safeguards Glossary 2022 edition



2.15. Non-application of safeguards to nuclear material to be used in non-peaceful activities. The use of nuclear material in a non-proscribed military activity which does not require the application of IAEA safeguards. More specifically, this refers to the use by a State with a comprehensive safeguards agreement (CSA) as envisaged in para. 14 of [153] of nuclear material in a nuclear activity which does not require the application of IAEA safeguards (e.g. a non-proscribed military activity such as naval nuclear propulsion). the IAEA and the State are required to make an arrangement, as provided for in para. 14(b) and 14(c) of [153], so that only while the nuclear material is in such an activity, the safeguards provided for in [153] will not be applied. Such an arrangement shall identify, to the extent possible, the period or circumstances during which safeguards will not be applied. **Any arrangement pursuant to para. 14 of [153] will be reported to the IAEA Board of Governors**



29/04/2025

Naval Nuclear Propulsion: NPT and IAEA Safeguards

IAEA Safeguards Glossary 2001 edition



2.14. Non-application of IAEA safeguards — refers to the use of nuclear material in a non-proscribed military activity which does not require the application of IAEA safeguards. Nuclear material covered by a comprehensive safeguards agreement may be withdrawn from IAEA safeguards should the State decide to use it for such purposes, e.g. for the propulsion of naval vessels. Paragraph 14 of [153] specifies the arrangements to be made between the State and the IAEA with respect to the period and circumstances during which safeguards will not be applied. **Any such arrangement would be submitted to the IAEA Board of Governors for prior approval**

Naval Nuclear Propulsion: NPT and IAEA Safeguards > Confusion?



Six Questions on Naval Nuclear Propulsion and IAEA Safeguards

4. Would Board approval be required for an arrangement for the non-application of safeguards on material used in naval nuclear propulsion?

Not necessarily.

Second, during Committee 22 the view was expressed that, as the NPT did not prohibit non-explosive military nuclear uses, no Member State should be able to block the conclusion of a paragraph 14 arrangement because it objected to the nature of the use. **The Director General may consult with the Board, but is under no obligation to do so.**

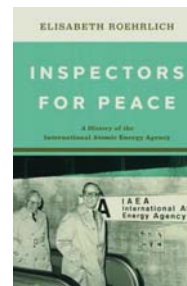
Inaccurate !

CONCLUSIONS

Implementation of INFCIRC/153 Article 14 providing for non-application of Agency safeguards on non-peaceful nuclear (non-explosive) activities has the potential to irreversibly adversely affect the non-discriminatory universal application of comprehensive safeguards in NPT non-nuclear-weapon States with CSAs in force...

It has not been Agency practice for any Member State or group of Member States to define a so-called "highest non-proliferation standard" nor to claim to create any precedent(s) for interpretation or implementation of CSAs (or APs) > that is the sole prerogative of the Board and Member States...

Readings



29/04/2025

Tariq Rauf

29/04/2025

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S2Tariq Rauf



- Who has the right to interpret Article 14 and its applicability? This is an old question. There is no easy answer to it.
- When Committee 22 drafted the Comprehensive Safeguards Agreement template (INFCIRC/153) in early 1970s, it could not reach agreement on whether "the original proposal tabled by the Secretariat would have required for Board approval" or "approval by the Director General".

The application of Article 14 of the Comprehensive Safeguards Agreement template (INFCIRC/153) is unprecedented.

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- In his response to Australia, the Director General of the IAEA thought that question was important, and mentioned two important points in his response. First, Article 14 has not been interpreted by the Board of Governors yet. Second, the Board of Governors has the authority to take appropriate action.

- Whether Article 14 of the CSA is applicable to AUKUS is a serious question worth comprehensive discussion.

Director General S. Eklund's clarification about Article 14 in 1978

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- The IAEA does not have experience in this respect.

The IAEA safeguards of tons of weapon grade HEU in Submarine used for military purpose is unprecedented.

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Design of so called "golden nonproliferation rules" by potential proliferators is unprecedented.

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Face the truth: AUKUS = an axis of conditional proliferators

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- Challenges to the legal basis of IAEA Safeguards
 - Violation of article 2 of IAEA Statute.

ARTICLE II Objectives

The Agency shall seek to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world. It shall ensure, so far as it is able, that assistance provided by it or at its request or under its supervision or control is not used in such a way as to further any military purpose.

Impacts upon the IAEA Safeguards

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- The modification, interpretation and implementation of the various types of the IAEA's safeguards agreements, require consensus among all willing IAEA member states and then are approved and adopted by the IAEA Board of Governors

- INFCIRC/66
- INFCIRC/153
- INFCIRC/540



Endanger the tradition of consensus.

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- It is difficult to strike a balance between effective monitoring and protection of sensitive information.

Technical Challenges to the IAEA Safeguards

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- it is not easy for IAEA to track and verify while the SSN cruises in the deep sea.



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- Up to now no non-nuclear-weapon state to the NPT has ever invoked exemptions from safeguards on nuclear-powered submarine reactors. The feasibility and effectiveness of related verification technology requires comprehensive test.
- The safety and security of nuclear materials and technology must be guaranteed during the transportation of nuclear materials involved in nuclear submarine reactors. Miscellaneous factors such as packaging, critical reaction prevention, decay heat, and reactor trip must be taken into consideration.

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- All verification options have their own flaws. The "black box" scheme, for instance, is controversial with regard to the starting and end points of verification and lacks essential timeliness, credibility or operability, or the technical means for verification tracking and information shielding.

- First, the AUKUS SSN program is an unprecedented conditional proliferation case. We should not mix it with the routine safeguard arrangements.
- Second, the AUKUS SSN program pose grave legal and technical challenges to the IAEA safeguards mechanism. The international arms control community and relevant think tanks should maintain ongoing attention to relevant issues and hold regular sessions for discussion,

☺ Thank you!

Article 14: Safeguards Objectives, Approaches and Measures

Noah Mayhew
Senior Research Associate

Safeguards Objectives: INFCIRC/153 and Practical Implementation

OBJECTIVE OF SAFEGUARDS

28. The Agreement should provide that the objective of safeguards is the timely detection of diversion of significant quantities of *nuclear material* from peaceful nuclear activities to the manufacture of nuclear weapons or of other nuclear explosive devices or for purposes unknown, and deterrence of such diversion by the risk of early detection.

Safeguards Objectives: Paragraph 14

NON-APPLICATION OF SAFEGUARDS TO NUCLEAR MATERIAL TO BE USED IN NON-PEACEFUL ACTIVITIES

14. The Agreement should provide that if the State intends to exercise its discretion to use *nuclear material* which is required to be safeguarded thereunder in a nuclear activity which does not require the application of *safeguards under the Agreement*, the following procedures will apply:

(b) The Agency and the State shall make an arrangement so that, only while the *nuclear material* is in such an activity, the *safeguards provided for in the Agreement will not be applied*. The arrangement shall

Safeguards Objectives: Generic

- To detect any **diversion of declared** nuclear material at declared facilities or locations outside facilities (LOFs);
- To detect any **undeclared production or processing** of nuclear material at declared facilities or LOFs;
- To detect any **undeclared** nuclear material or activities in the **State as a whole**.

IAEA Safeguards Glossary 2022

Safeguards Objectives: Technical

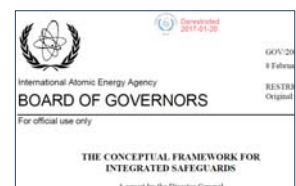
Acquisition path analysis. A structured method used to analyse the plausible paths by which, from a technical point of view, nuclear material suitable for use in a nuclear weapon or other nuclear explosive device could be acquired. **Acquisition path analysis is used to establish technical objectives for a State with a comprehensive safeguards agreement (CSA) in force.** It does not involve judgements about a State's intention to pursue any such path.

IAEA Safeguards Glossary 2022

Conceptual Framework for Integrated Safeguards

- State-specific factors (State-specific features and characteristics)
- Acquisition path analysis (APA)

See paras GOV/2002/8 (paras 15-16, 21-24; GOV/OR.1045 (paras 16-17)



Outstanding Questions

- How do the technical objectives change?
- What measures could be chosen?
- What could the arrangement look like as a whole?



In Summary

- **Overall objective** of safeguards from INFCIRC/153 does not change.
- **Generic objectives** also do not change.
- Acquisition path analysis and State-specific factors inform **technical objectives** on the basis of which the Secretariat develops the **safeguards approach** and choose associated **safeguards measures**.

Thank you

Noah Mayhew
Senior Research Associate

✉ nmayhew@vcdnp.org; nmayhew@middlebury.edu

✉ @atomic_yozhik

🌐 vcdnp.org

Workshop “AUKUS: New Challenges to the IAEA Safeguards”

Remarks by Anton Khlopkov, Director, Center for Energy and Security Studies
Vienna (Austria), 25 April 2025

“Developing an effective and non-discriminatory IAEA safeguards regime on AUKUS: contributions from the Secretariat, Board of Governors and Member States.”

It is difficult to be revolutionary or innovative, when you are the last speaker in such a highly-qualified and expertise-dense audience. In my remarks I would like to highlight a few points, which I believe are of special importance, based on our discussion today, last year workshop, and a few of my own ideas and observations.

1. First of all, I'd like to echo the previous speakers and express my gratitude to the Permanent Mission of China for their consistent efforts in organizing inclusive discussions on IAEA safeguards in the context of the AUKUS nuclear submarine deal. I'd like to highlight the word 'inclusive'. This is likely the only regular platform open both to diplomats and think-tankers. I'm glad to be a part of this very interactive discussion.

2. A number of experts today spoke on the developments around the AUKUS nuclear submarine deal and IAEA safeguards application in that context since the second workshop, which was held by the Chinese Mission in Vienna on 27 April 2024. I'd also like to focus on one specific aspect of the topic.

There are growing concerns about the regular references by AUKUS states in their joint trilateral documents to the cooperation practices under the (3 July) 1958 US-UK Mutual Defense Agreement. The recent Agreement for Cooperation Related to Naval Nuclear Propulsion of 5 August 2024 is no exception. Let me remind you – the UK-US MDA is a legal basis for ongoing cooperation between UK nuclear R&D institutions and US nuclear weapons labs. Particularly, Article II of the agreement provides for the exchange of classified information necessary for the development of nuclear weapons delivery systems and the training of personnel in the use of nuclear weapons. It's at the very least surprising and controversial that this agreement is referenced by two NPT depositories in a deal with a NNWS.

AUKUS states should clarify the relationship between the AUKUS related arrangements and the UK-US MDA, especially since there are concerns that the nuclear submarines for Australia could be converted to carry nuclear weapons in the future.

3. Unfortunately, since the last workshop, there has been no much progress in AUKUS states being more open to inclusive dialogue regarding their submarine deal and IAEA safeguards in this context. The three states continue engaging with the IAEA Secretariat behind the closed doors.

That said, I'd like to highlight: consistency is a key element, a backbone of the IAEA safeguards system's credibility and the guarantees' overall effectiveness. Former US National Security Advisor John Bolton once said, “Consistency is for the weak.” But in the context of the IAEA and safeguards, a lack of consistency could be destructive if not fatal.

A departure from the traditional formats of developing new conceptual documents related to the implementation of safeguards, especially without broad discussions involving interested parties, poses a threat to long-term trust in the safeguards system and credibility of the safeguards system.

For example, after the Iraq crisis, exactly in this way – in an inclusive manner – the Additional Protocol was developed. It's worth noting that this is a voluntary document for states to sign, unlike the arrangement under Article 14 of the CSA. The latter is mandatory if a state intends to “exempt” nuclear material from IAEA safeguards for the use in a non-proscribed military activity.

I believe it's accurate to say that the HEU quantity to be delivered to Australia under the AUKUS nuclear submarine deal significantly exceeds the combined stocks of HEU of similar enrichment levels in all NNWS where the Additional Protocol is applied. Isn't this alone a strong enough reason to develop approaches to the application of safeguards in the same inclusive manner as with the Additional Protocol with all interested member states involved?

4. At the same time, I want to highlight that the fate of the AUKUS nuclear submarine deal itself is still unclear. Within the current U.S. administration, there are high-level officials who, for various reasons, consistently express skepticism about its prospects. Among them, for example, is Elbridge Colby, who earlier this month was confirmed by the U.S. Senate as Pentagon Policy Chief or Under Secretary of Defense for Policy.

This raises a reasonable question: whose long-term interests are being served by undermining the established IAEA formats for developing conceptual safeguards approaches, especially considering that such new approaches would set precedents? Even more so given that the very agreement prompting these changes may never be implemented. This could lead to losses for everyone and, most importantly, damage the credibility of the safeguards system.

5. When we talk about the importance of consistency in the context of evolution of the IAEA safeguards system, it applies equally to both Member States and the IAEA Secretariat. As it is known, in 2022 a new edition of the Safeguards Glossary was published. There, the role of the IAEA BoG in adopting arrangements under Article 14 of the CSA was changed. It was, I quote, “any such arrangement would be submitted to the IAEA Board of Governors for prior approval.” Now it is “Any arrangement pursuant to para. 14 of [153] “will be reported to the IAEA Board of Governors”.

I am sure that the Secretariat may have strong and valid reasons for revising its stance on the BoG's role regarding such arrangements. But it is crucial that these arguments be communicated in as much detail as possible, including publicly. Glossary is a public document. Perhaps a dedicated article on the Agency's website could be used to explain what are the reasons behind the change of Secretariat position. **It's still not too late to do this.** After all, the declared purpose of the Glossary, as stated by the IAEA itself, is to facilitate “understanding of the specialized safeguards terminology within the international community.” Serious changes should be accompanied by legal

and technical explanations from the Secretariat, and should serve as a basis for further discussion of this matter.

6. In his statement on 14 March 2023, the IAEA DG Grossi drew attention to the fact that drafting an appropriate arrangement involves “serious legal and complex technical matters” as well as “the development of the necessary safeguards approach”. One cannot but agree with this statement. In this context, it makes sense to consider creating an expert mechanism that would combine the knowledge and experience of the Secretariat and the IAEA Member States. My personal belief is that in accordance with existing practice, the IAEA Member States should take active part in the development of arrangements on conceptual issues related safeguards, that includes arrangements necessary under the Article 14 of CSA. There is no experience for the application of safeguards in similar to AUKUS nuclear submarine projects. The relevant concept needs to be developed.

During the workshop last year I proposed that the Secretariat and the IAEA Member States shall consider establishing or using different types of fora to contribute to the development of arrangements necessary under the Article 14 of CSA: Special Committee open to all IAEA Member States; Special Expert Group; SAGSI; Technical Meetings on application of safeguards in the context of AUKUS nuclear submarine deal. And this list is not exhaustive. Tariq Rauf mentioned today a Scientific Forum of the General Conference as another option. So, we do have a menu of options if there is a political will among the AUKUS states in first place to have a truly inclusive and sustainable approach.

7. The AUKUS partners on multiple occasions and at different levels, including at the highest level, expressed their commitment to adhere to “the highest standards” for international transparency. It is high time to move from statements to actions.

8. I began my comment by highlighting the lack of inclusive platforms for discussing the issue of safeguards in the context of the AUKUS nuclear submarine deal. In this regard, I would like to inform you that the 8th Moscow Nonproliferation Conference will take place from 12-14 March 2026. I’d use this opportunity to invite everyone interested to engage in a discussion on the topic of IAEA safeguards and Article 14 of CSA in the context of the AUKUS deal. We are particularly interested in the participation of AUKUS states and will be pleased to provide them a platform to present their perspective and approaches to these complex issues.

Elements presented by the Secretariat during the Workshop on 24 April 2025

(Provided by Mr. Ionut Suseanu)

- The Agency is an intergovernmental organization established by the Statute (Art. I of the Statute); States are parties to the Statute and they have the authority to interpret its provisions; objectives (Art. II), functions (Art. III), roles of PMO (Art. V and VI), DG and the Secretariat (Art. VII).
- The safeguards or control function of the Agency set out in Art. III.A.5 of the Statute is different than the “assistance” function which is addressed in Art. III.A.1-4, 7, and Art. IX-XI.
- Art. III.A.5 authorizes the Agency to establish and administer safeguards designed to ensure that assistance made available by the Agency is not used in such a way as to further any military purpose; this applies to project and supply agreements approved by the Board involving Agency assistance (Art. XI – Agency Projects).
- In addition, Art. III.A.5 authorizes the Agency to apply safeguards, at the request of the parties, to any bilateral or multilateral arrangement (e.g. in connection with the NPT or NWFZ treaties) or at the request of a State, to any of that State’s activities in the field of atomic energy.
- The Board has the authority to carry out the functions of the Agency, including safeguards (Art. VI.F.). This has been confirmed by subsequent Board practice. The Board has authorized the DG to sign and implement all SG agreements (item-specific, CSA, VOA), now in force for 191 States.
- Since 1959, all safeguards documents (e.g. Inspector Document, first safeguards system (INFCIRC/26) and its subsequent revisions (INFCIRC/66, Rev. 1 and 2), INFCIRC/153, INFCIRC/540 and Safeguards Confidentiality Regime (1997) were developed by MS in the framework of the Board or its Safeguards Committees and approved by the Board.
- Regarding CSAs, the document contained in INFCIRC/153, was negotiated by Member States in the framework of Committee 22 established by the Board in 1970 after the entry into force of the NPT, and it was approved by the Board in 1971. The Board authorized the Director General to use this document as the basis for negotiating CSAs in connection with the NPT, and it has been doing so since 1971 without change. CSA concluded on the basis of INFCIRC/153 are currently in force for 183 NNWS parties to the NPT.

- The safeguards provisions in the Statute are not self-executing; the Agency applies safeguards on the basis of the safeguards agreements in force with States, and regional organizations. For States with CSAs in force, the Agency applies safeguards on the basis of their respective CSA concluded with the Agency pursuant to the authority provided for in Article III.A.5 of the Statute, i.e. “to apply safeguards, at the request of the parties to any bilateral or multilateral arrangement”.
- The safeguards agreements set out the States undertakings, rights and obligations of the parties and the relevant safeguards procedures to be applied.
- The issue of compatibility of safeguards agreements, including CSAs based on INFCIRC/153, and the Agency’s Statute as regards the statutory legitimacy of non-explosive military applications of nuclear material subject to the Agency’s safeguards system was considered by the Board in early 80’s. The study carried out at that time by the Director General concluded that this statutory requirement is met under all types of safeguards agreements, including INFCIRC/153-type agreements. The Board took note of this study.
- The State’s undertaking in Article 1 of the CSA is to accept safeguards on all nuclear material in “all peaceful nuclear activities within its territory, under its jurisdiction or carried out under its control anywhere”. This is in accordance with Article III.1 of the NPT. The Agency has the right and obligation to apply safeguards, in accordance with the provisions of the CSA, on all such material to verify that it is not diverted to nuclear weapons or other nuclear explosive devices.
- The use of nuclear material required to be safeguarded under a CSA, whether produced domestically or imported, for nuclear-powered submarines was envisaged by Member States during the negotiations of Committee 22, it was agreed and reflected in paragraph 14 of INFCIRC/153 and included subsequently in the CSAs approved by the Board. Therefore, this is part of the legal framework, i.e. CSAs concluded on the basis of INFCIRC/153 which the Board has authorized the Director General to sign and implement. This function entrusted to the DG by the Board has been implemented in accordance with the safeguards agreements and under the authority of the Board.
- There is no mechanism in the CSA providing for automatic exclusion from safeguards of nuclear material “required to be safeguarded” under the CSA. This has to be done through the arrangement provided for in Article 14 of the CSA. Regarding the relevant reporting procedures of nuclear material, the nuclear material produced

domestically or imported has to be reported to the Agency as provided for in Art. 34 (c) and 91-95. The definition of “inventory change” in the CSA also refers to receipts from a non-safeguarded (non-peaceful) activity and shipment for a non-safeguarded (non-peaceful) activity; none of these provisions have an exclusion for nuclear material used in naval nuclear propulsion or transferred for a non-proscribed military activity in a CSA State. Such advance notification enables the Agency to plan its activities under the CSA, prior to the time when the arrangement in Art. 14 becomes effective.

- Article 14 of the CSA allows the State to use nuclear material which is required to be safeguarded under the CSA in a nuclear activity, such as nuclear propulsion for submarines, provided that the State makes an arrangement with the Agency in this regard.
- Under Art. 5 of the CSA, the Agency has the obligation to protect confidential information coming to its knowledge in the implementation of the CSA. The Agency cannot not publish or communicate to any State, organization or person any information obtained by it in connection with the implementation of the CSA, including with respect to information received from a State in relation to Art. 14 arrangement, except that specific information relating to such implementation in the State may be given to the Board and to such Agency staff members as require such knowledge by reason of their official duties in connection with safeguards, but only to the extent necessary for the Agency to fulfil its responsibilities in implementing the CSA.
- Since September 2021, the DG addressed the matter in his statements to the Board and also in the SIR and specific reports to the Board. In this context, DG pointed out, inter alia, that:
 - the legal obligations of the parties and the non-proliferation aspects are paramount; the Agency’s role in this process is foreseen in the existing legal framework and falls strictly within its statutory competences;
 - the Agency will continue to have its verification and non-proliferation mandate as its core guiding principle and it will exercise it in an impartial, objective and technical manner;
 - the technical discussions initiated with two States with CSAs in force which notified the Agency of their decisions to acquire naval nuclear propulsion would need to address all aspects related to the application of safeguards to nuclear

material and related facilities prior to and after the required arrangements would become effective, as well as the elements to be included in such arrangement; the Agency will consider in addition, which provisions of the Additional Protocol would be applicable, as well as any transparency measures that might be offered in this regard.

- during this process, we will act in strict accordance with the letter and spirit of the legal framework (CSA, AP and the Statute) and keep the Board informed at all stages of our consultations.
- The legal aspects to be discussed concern paragraph 14 of INFCIRC/153 as a whole and will include:
 - the State party's commitment that the use of the nuclear material in a non-proscribed military activity will not be in conflict with an undertaking the State may have given, and in respect of which Agency safeguards apply (e.g. an item-specific safeguards agreement or a project and supply agreement), that the nuclear material will be used only in a peaceful nuclear activity;
 - Duration of the arrangement;
 - Reporting arrangements, which do not involve any approval or classified knowledge of the military activity or relate to the use of nuclear material therein.
- Regarding the issue of interpretation of the CSA provisions, DG clarified during the Board meeting in June 2023 that there are specific provisions on the interpretation and application of the CSA in articles that correspond to paragraphs 20 and 21 of INFCIRC/153. Paragraph 20 provides that the State party to the CSA and the Agency "shall, at the request of either, consult about any question arising out of the interpretation or application of [the CSA]", including paragraph 14. Pursuant to paragraph 21, the State party to the CSA has the right to request that "any question arising out of the interpretation or application of [its CSA] be considered by the Board". So interpretation where it is a matter between the State party concerned and the Secretariat, this is according to the existing legal framework.
- DG also informed the Board on several occasions that he will ensure a transparent process that will be solely guided by the Agency's statutory mandate and the relevant safeguards agreements and he will continue to keep the Board of

Governors and Member States informed of this work and to transmit the arrangement when finalized to the Board of Governors for appropriate action.