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(GC(58)/1, Add.1 and Add.2)

Application of IAEA Safeguards in the Middle East

Report by the Director General

A. Introduction

1. General Conference resolution GC(57)/RES/15, in operative paragraph 4, affirmed “the urgent need for all States in the Middle East to forthwith accept the application of full-scope Agency safeguards to all their nuclear activities as an important confidence-building measure among all States in the region and as a step in enhancing peace and security in the context of the establishment of an NWFZ”;

in operative paragraph 5, it called upon “all parties directly concerned to consider seriously taking the practical and appropriate steps required for the implementation of the proposal to establish a mutually and effectively verifiable NWFZ in the region” of the Middle East;

and in operative paragraph 7, it further called upon “all States in the region to take measures, including confidence-building and verification measures, aimed at establishing an NWFZ in the Middle East”.

Operative paragraph 10 of GC(57)/RES/15, reiterated the Director General’s mandate from earlier resolutions of the General Conference “to pursue further consultations with the States of the Middle East to facilitate the early application of full-scope Agency safeguards to all nuclear activities in the region as relevant to the preparation of model agreements, as a necessary step towards the establishment of a NWFZ in the region, referred to in resolution GC(XXXVII)/RES/627”;

in operative paragraph 11, it repeated the call from previous resolutions of the General Conference upon “all States in the region to extend their fullest cooperation to the Director General in the fulfilment of the tasks entrusted to him” in operative paragraph 10;

and in operative paragraph 12, it called upon “all other States, especially those with a special responsibility for the maintenance of international peace and security, to render all assistance to the Director General by facilitating the implementation of this resolution”.

Resolution GC(57)/RES/15, in operative paragraph 13, requested “the Director General to submit to the Board of Governors and to the General Conference at its fifty-eighth (2014) regular session a report on the implementation of this resolution”.

On 22 September 2000, in the context of the agenda item on ‘Application of IAEA safeguards in the Middle East’, the General Conference adopted decision GC(44)/DEC/12, in which it requested “the Director General to make arrangements to convene a forum in which participants from the Middle East and other interested parties could learn from the experience of other regions, including in the area of confidence building relevant to the establishment of a nuclear weapon free zone.”

The decision also called upon “the Director General, with States of the Middle East and other interested parties, to develop an agenda and modalities which will help to ensure a successful forum.”

2. This report, as requested by the General Conference, describes the steps undertaken by the Director General in his efforts to further the implementation of his mandates conferred by the General Conference in resolution GC(57)/RES/15 and in decision GC(44)/DEC/12.

B. Application of Full-Scope Agency Safeguards

3. The Director General has continued to stress the emphasis that has been placed in successive General Conference resolutions on the application of comprehensive Agency safeguards on all nuclear activities in the Middle East region and the mandates entrusted to him in this context. He has continued to encourage the development and consideration of relevant new ideas and approaches that could help to move his mandates forward.

4. All States of the Middle East region¹ except for Israel are parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and have undertaken to accept comprehensive Agency safeguards. As of 27 June 2014, two States of the Middle East region that are parties to the NPT have yet to bring into force their comprehensive safeguards agreements with the Agency pursuant to that Treaty — Djibouti has signed but has not yet brought into force its comprehensive safeguards agreement, while Somalia has yet to take action in this regard. Additional protocols are in force for Bahrain, Comoros, Iraq, Jordan, Kuwait, Libya, the Islamic Republic of Mauritania, Morocco and the United Arab Emirates. Djibouti, the Islamic Republic of Iran (Iran) and Tunisia have signed but not yet brought into force additional protocols, and an additional protocol has been approved for Algeria but not yet signed. Since the last report on this agenda item², no additional protocol has been brought into force by a State in the Middle East region.

5. The discussions with representatives of the States of the Middle East region have shown that there continues to be a long-standing and fundamental difference of views between Israel, on the one hand, and the other States of the Middle East region, on the other hand, with regard to the application of comprehensive Agency safeguards to all nuclear activities in the region. All States in the region except for Israel emphasize that they are parties to the NPT and maintain that there is no automatic sequence that links the application of comprehensive safeguards to all activities in the Middle East, or the establishment of a nuclear-weapon-free zone (NWFZ), to the prior conclusion of a peace

¹ Algeria, Bahrain, Comoros, Djibouti, Egypt, the Islamic Republic of Iran (Iran), Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, the Islamic Republic of Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syrian Arab Republic (Syria), Tunisia, the United Arab Emirates (UAE) and Yemen.

² See documents GOV/2013/33-GC(57)/10 and GOV/2013/33/Add.1-GC(57)/10/Add.1.

settlement, and that the former would contribute to the latter.³ Israel takes the view that Agency safeguards, as well as all other regional security issues, cannot be addressed in isolation from the creation of stable regional security conditions and that these issues should be addressed in the framework of a regional security and arms control dialogue that could be resumed in the context of a multilateral peace process.⁴ Thus, the Director General has not been able to make further progress in fulfilling his mandate pursuant to resolution GC(57)/RES/15 regarding the application of comprehensive Agency safeguards covering all nuclear activities in the region of the Middle East. The Director General will continue with his consultations in accordance with his mandate regarding the early application of comprehensive Agency safeguards on all nuclear activities in the Middle East region.

C. Model Safeguards Agreements as a Necessary Step towards a Middle East NWFZ

6. The process which has resulted in broad adherence to the NPT and consequently to INFCIRC/153-type comprehensive safeguards agreements in the Middle East is an important step in creating confidence regarding nuclear non-proliferation and regional security. The successive resolutions adopted without a vote by the United Nations (UN) General Assembly supporting the establishment of an NWFZ in the Middle East⁵ are important building blocks in this process.

7. The 2010 NPT Review Conference reaffirmed the importance of the resolution on the Middle East adopted by the 1995 NPT Review and Extension Conference and recalled the affirmation of its goals and objectives by the 2000 NPT Review Conference.⁶ The Conference stressed that the resolution remained valid until the goals and objectives were achieved, and reiterated that the resolution, which was co-sponsored by the depositary States of the NPT (the Russian Federation, the United Kingdom and the United States of America), was an essential element of the outcome of the 1995 NPT Review and Extension Conference and of the basis on which the Treaty was indefinitely extended without a vote in 1995. The States parties renewed their resolve to undertake, individually and collectively, all necessary measures aimed at its prompt implementation.

8. The 2010 NPT Review Conference emphasized the importance of a process leading to full implementation of the 1995 Resolution on the Middle East. To that end, the Conference endorsed the practical step that “[t]he Secretary-General of the United Nations and the co-sponsors of the 1995 Resolution, in consultation with the States of the region, will convene a conference in 2012, to be attended by all States of the Middle East, on the establishment of a Middle East zone free of nuclear

³ The views of several States of the region (Algeria, Egypt, Iran, Libya and the UAE) have been elaborated further, inter alia, in their statements at the meeting of the Board of Governors on 12 September 2013 (GOV/OR.1364), and at the 57th regular session of the General Conference, 16–20 September 2013 (GC(57)/OR.1 (Iran); GC(57)/OR.2 (Egypt, Libya and Saudi Arabia); GC(57)/OR.3 (Iraq and Sudan); GC(57)/OR.4 (Algeria, Jordan, Kuwait, Oman, Syria, Tunisia and the UAE); GC(57)/OR.5 (Bahrain and Qatar); GC(57)/OR.6 (Lebanon and Morocco); and GC(57)/OR.9 (Egypt, Iran and Syria).

⁴ Israel’s position has been elaborated further in documents GOV/2004/61/Add.1-GC(48)/18/Add.1, GC(57)/OR.6 and GC(57)/OR.9.

⁵ The most recent is UN General Assembly resolution A/RES/68/27, “Establishment of a nuclear-weapon-free zone in the region of the Middle East”, adopted without a vote on 5 December 2013. The text of the resolution is available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/27.

⁶ See the Final Document of the 2010 NPT Review Conference: NPT/CONF.2010/50 (Vol. I), IV. “The Middle East, particularly implementation of the 1995 Resolution on the Middle East”, paragraph 1.

weapons and all other weapons of mass destruction, on the basis of arrangements freely arrived at by the States of the region, and with the full support and engagement of the nuclear-weapon States” and that “[t]he 2012 Conference shall take as its terms of reference the 1995 Resolution”.⁷

9. The 2010 NPT Review Conference also agreed additional steps aimed at supporting the implementation of the 1995 Resolution, including that the “IAEA, the Organisation for the Prohibition of Chemical Weapons and other relevant international organizations be requested to prepare background documentation for the 2012 Conference regarding modalities for a zone free of nuclear weapons and other weapons of mass destruction and their delivery systems, taking into account work previously undertaken and experience gained”.⁸

10. In response to a request from Mr Jaakko Laajava, the facilitator of the 2012 Conference, in October 2012 the Agency Secretariat provided to Mr Laajava background documentation⁹ which described the work undertaken by the Agency and the experience gained with regard to modalities for a zone free of nuclear weapons in the Middle East region.

11. At the 2012 and 2013 sessions of the Preparatory Committee for the 2015 NPT Review Conference held in Vienna and Geneva respectively, “States parties recalled the importance of the Resolution on the Middle East adopted by the 1995 Review and Extension Conference and recalled the affirmation of its goals and objectives by the 2000 Review Conference and in the conclusions and recommendations for follow-on actions adopted at the 2010 Review Conference. They recalled that the resolution remained valid until the goals and objectives were achieved.”¹⁰

12. States parties reaffirmed their support for the convening of a conference on the establishment of a Middle East zone free of nuclear weapons and all other weapons of mass destruction “in accordance with the mandate agreed to in 2010. Many States parties expressed support for convening the Conference as soon as possible and no later than the end of 2013. The view was also expressed that a successful Conference attended by all the States of the region required direct engagement of the States of the region, including agreement by consensus on its agenda and date, and that a Conference could be convened immediately after such agreement was reached. States parties recognized that while the deadline for convening the Conference had not been met, the opportunity had not been lost.”¹¹

13. At its 2014 session, held in New York, the Preparatory Committee for the 2015 NPT Review Conference reaffirmed “the importance of the implementation of the 1995 Resolution on the Middle East, and the related outcomes of the 2000 and 2010 Review Conferences; including the convening without further delay of the postponed 2012 Conference, on the establishment of a Middle East zone free of nuclear weapons and all other weapons of mass destruction on the basis of arrangements freely arrived at by the States of the region, taking as its terms of reference the 1995 Resolution” and also “the commitments of the Secretary-General of the United Nations and the co-sponsors of the 1995 Resolution, in consultation with the States of the region, to hold the postponed 2012 Conference this

⁷ NPT/CONF.2010/50 (Vol. I), IV. “The Middle East, particularly implementation of the 1995 Resolution on the Middle East”, paragraph 7(a).

⁸ NPT/CONF.2010/50 (Vol. I), IV. “The Middle East, particularly implementation of the 1995 Resolution on the Middle East”, paragraph 7(d).

⁹ Document GOV/2013/33/Add.1-GC(57)/10/Add.1.

¹⁰ First Session of the Preparatory Committee for the 2015 NPT Review Conference, *Chairman’s factual summary (Working paper)*, NPT/CONF.2015/PC.I/WP.53 (10 May 2012), paragraph 68; Second Session of the Preparatory Committee for the 2015 NPT Review Conference, *Chair’s factual summary*, NPT/CONF.2015/PC.II/WP.49 (3 May 2013), paragraph 68.

¹¹ Second Session of the Preparatory Committee for the 2015 NPT Review Conference, *Chair’s factual summary*, NPT/CONF.2015/PC.II/WP.49 (3 May 2013), paragraph 73.

year as soon as agreement is reached, with the support of the Facilitator, among the States of the region on the practical arrangements.”¹²

14. Notwithstanding the continuing broad support for the view that the global nuclear non-proliferation regime would be further strengthened through the establishment of an NWFZ in the Middle East, the requests of the General Conference for model safeguards agreements require agreement among the States in the region on the material obligations that those States are prepared to assume as part of an NWFZ agreement in the Middle East region.

15. Material obligations which could form part of an eventual Middle East NWFZ agreement have been described in the previous reports of the Director General.

16. There still continues to be a lack of agreement among the States in the region of the Middle East on the substance and modalities of an agreement to establish a Middle East NWFZ. The Secretariat therefore may not be in a position at this stage to embark on the preparation of the model agreements foreseen in the 1995 Resolution. However, the Director General and the Secretariat will continue to consult and work with the States of the Middle East region to find the common ground required to develop the model agreements as a necessary step towards the establishment of a Middle East NWFZ.

D. Implementation of Decision GC(44)/DEC/12 of the General Conference: The Agency’s Forum on Experience of Possible Relevance to the Creation of a Nuclear-Weapon-Free Zone in the Middle East

17. In 2000, the General Conference adopted decision GC(44)/DEC/12, in which the Conference requested the Director General, inter alia, to develop an agenda and modalities which would help to ensure a successful forum on the relevance of the experience of existing NWFZs, including confidence building and verification measures, for establishing an NWFZ in the region of the Middle East.

18. NWFZs have already been established in Latin America and the Caribbean, the South Pacific, Southeast Asia, Africa and Central Asia,¹³ respectively, through the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco), the South Pacific Nuclear-Free-Zone Treaty (Treaty of Rarotonga), the Treaty on the Southeast Asia Nuclear Weapon-Free Zone (Bangkok Treaty), the African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty) and the Treaty on a Nuclear-Weapon-Free Zone in Central Asia, as noted in the Director General’s previous reports, most recently in document GOV/2013/33-GC(57)/10 and Add.1. These established NWFZs are of particular relevance to the examination of the material obligations to be included in the verification regime to be implemented in a future Middle East NWFZ. While the existing NWFZ treaties contain certain variations and additional rights and obligations that, inter alia, take into account the specific characteristics of each of the respective regions, all five NWFZ treaties: cover large

¹² Third Session of the Preparatory Committee for the 2015 NPT Review Conference, *Chairman’s Working Paper, Recommendations by the Chair to the 2015 NPT Review Conference*, NPT/CONF.2015/PC.III/WP.46 (8 May 2014), paras. 10 and 12.

¹³ Nuclear-weapon-free zones have also been established in certain uninhabited areas — Antarctica (Antarctic Treaty), outer space (Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies) and the seabed (Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof).

inhabited areas and are all designed to ensure the total absence of nuclear weapons from the territories of the States party to them; provide for Agency verification of the non-diversion of nuclear material¹⁴ and for the establishment of regional mechanisms to deal with compliance problems; and contain a protocol providing for the nuclear-weapon States to commit themselves not to use or threaten to use nuclear weapons against any non-nuclear-weapon State party to the NWFZ treaty in question.

19. In previous years, as mandated by decision GC(44)/DEC/12 of the General Conference, the Secretariat sought the views of Member States of the Middle East region with regard to developing an agenda and modalities for convening a forum in which participants from the Middle East and other interested parties could learn from the experience of other regions, including in the area of confidence-building, relevant to the establishment of an NWFZ in the Middle East region. In this regard, the Agency circulated a proposed agenda in 2004 (Annex to document GC(48/18)) and continued to seek the views of the concerned States, as reported in previous reports by the Director General on *Application of IAEA Safeguards in the Middle East*.

20. The Director General's continued efforts in pursuance of his mandate contained in GC(44)/DEC/12 were welcomed by many. The Director General pursued further consultations with Member States of the Middle East region and with other interested parties on arrangements conducive to the forum being a constructive contribution towards the objective of the establishment of an NWFZ in the Middle East region.

21. As mandated by decision GC(44)/DEC/12, the Director General made "arrangements to convene a forum in which participants from the Middle East and other interested parties could learn from the experience of other regions, including in the area of confidence building relevant to the establishment of a nuclear weapon free zone". The Agency's Forum on Experience of Possible Relevance to the Creation of a Nuclear-Weapon-Free Zone in the Middle East took place from 21 to 22 November 2011 at Agency Headquarters in Vienna.¹⁵

22. In accordance with the agreed agenda,¹⁶ the Forum, reflecting the consensus of the Agency's Member States on the importance of establishing an NWFZ in the region of the Middle East, was designed to consider the experience of Africa, Asia, Europe, and Latin America and the Caribbean in creating regional security regimes and achieving disarmament through establishing NWFZs. The principal focus of the Forum was to: (i) study the lessons of other regions regarding the regional setting and context that had prevailed there before they began considering a NWFZ; (ii) review the existing multilaterally agreed principles for establishing NWFZs in populated areas of the world; (iii) review the theory and practice of establishing the five existing NWFZs; (iv) discuss with representatives from the five existing NWFZs their experience in promoting, negotiating and practically implementing negotiated arrangements for NWFZs; and (v) discuss the region of the Middle East in this context. The potential relevance of such experience to the case and region of the Middle East was addressed as well.

¹⁴ The Treaty on a Nuclear-Weapon-Free Zone in Central Asia, under Article 8, also requires States Parties to conclude with the IAEA and bring into force an Additional Protocol to their comprehensive safeguards agreements within 18 months after the Treaty's entry into force.

¹⁵ Further information on the Forum is available in document GOV/2012/38-GC(56)/17, paras 25–37.

¹⁶ Document GOV/2012/38-GC(56)/17, Annex 1.