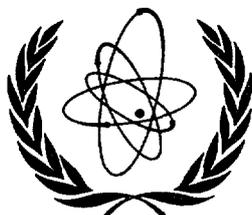


GC



International Atomic Energy Agency

GENERAL CONFERENCE

GC(XXXI)/807

24 August 1987

GENERAL Distr.

Original: ENGLISH

Thirty-first regular session
Item 17 of the provisional agenda
(GC(XXXI)/799)

SOUTH AFRICA'S NUCLEAR CAPABILITIES

Report by the Board of Governors

A resolution containing a recommendation made by the Board in June pursuant to operative paragraph 12 of resolution GC(XXX)/RES/468 adopted by the General Conference last year is herewith transmitted to the Conference for its consideration. Attached also are an information paper produced by the Director General and the summary records of the Board's discussions under this item in February and June.

2135e/243e
87-3772

ATTACHMENT 1

SOUTH AFRICA'S NUCLEAR CAPABILITIES

Text of a resolution adopted by the Board
of Governors on 12 June 1987

The Board of Governors,

(a) Having considered the note by the Director General contained in document GOV/INF/523 and his oral statements at the February 1987 and June 1987 meetings of the Board of Governors on South Africa's nuclear capabilities,

(b) Recalling United Nations General Assembly resolution 41/45 A and B on the Declaration on the Denuclearization of Africa and the Nuclear Capability of South Africa, and

(c) Stressing that the acquisition of nuclear weapons capability by the racist régime of South Africa constitutes a very grave danger to international peace and security and, in particular, jeopardizes the security of African States and increases the danger of the proliferation of nuclear weapons,

1. Takes note of United Nations General Assembly resolutions 41/45 A and B, 41/95, 41/14, 41/35 B and 41/405 and the report of the Board of Governors on South Africa's nuclear capabilities contained in document GC(XXX)/785,
2. Takes note with regret and disappointment of the Director General's report contained in document GOV/INF/523, which confirms that South Africa has persistently refused to comply with General Conference resolutions, in particular resolution GC(XXX)/RES/468, and has frustrated the continuous efforts of the Director General to reach agreement on safeguards at its nuclear facilities,
3. Considers that continuation of South Africa's policies in disregard and in violation of the purposes and principles of the United Nations, upon which, in accordance with Articles III.B and IV.B of the Statute, the Agency's activities are based, constitutes a persistent violation of the provisions of the Statute within the meaning of Article XIX.B, and
4. Recommends to the General Conference the suspension of South Africa from the exercise of the privileges and rights of membership in accordance with Article XIX.B of the Statute until it complies with the relevant General Conference resolutions and conducts itself in accordance with the purposes and principles of the Charter of the United Nations.

ATTACHMENT 2

SOUTH AFRICA'S NUCLEAR CAPABILITIES

Note by the Director General

1. On 23 September 1986 the Board of Governors decided^{1/} to transmit to the General Conference the report^{2/} prepared by the Secretariat pursuant to a request by the Board.
2. The General Conference considered the above report as submitted to it^{3/} on 3 October 1986 and adopted resolution GC(XXX)/RES/468 on South Africa's nuclear capabilities (Annex A).
3. The information contained in document GOV/INF/502, which remains valid, is herewith supplemented by information covering developments since the adoption of the above-mentioned resolution.

The General Assembly of the United Nations

4. At its 41st regular session, the United Nations General Assembly adopted several resolutions related to South Africa's nuclear capability.

1/ See GOV/OR.658, paragraphs 119 and 120.
2/ GOV/INF/502.
3/ GC(XXX)/785.

- in resolution 41/35B, entitled "Comprehensive and mandatory sanctions against the racist régime of South Africa", the Assembly called on Member States to "exclude the South African régime from all organizations within the United Nations system where this has not already been done".

- in resolution 41/35C, entitled "Relations between Israel and South Africa", the Assembly again strongly condemned "the ... collaboration of Israel with ... South Africa, especially in the economic, military and nuclear fields," and demanded that Israel "desist from and terminate forthwith all forms of collaboration with South Africa, particularly in the economic, military and nuclear fields, and abide scrupulously by the relevant resolutions of the General Assembly and the Security Council". It called upon "all Governments and organizations in a position to do so to exert their influence to persuade Israel to desist from such collaboration".

- in resolution 41/41B the Assembly strongly condemned "all collaboration, particularly in the nuclear and military fields, with the Government of South Africa and calls upon the States concerned to cease forthwith all such collaboration".

- in resolution 41/14 the Assembly condemned "the investment of foreign capital in the production of uranium and the collaboration by certain Western and other countries with the racist minority régime of South Africa in the nuclear field, which, by providing the régime with nuclear equipment and technology, enable it to develop nuclear and military capabilities and to become a nuclear Power", and called upon all Governments "to refrain from supplying that régime, directly or indirectly, with installations, equipment or material that might enable it to produce uranium, plutonium and other nuclear materials, reactors or military equipment".

- in resolution 41/55A the Assembly noted "the actions taken recently by those Governments which have taken measures to restrict co-operation with South Africa in nuclear and other fields" and expressed regret that "the Disarmament Commission has, once again, in 1986, failed to reach a consensus on this important item on its agenda". It condemned "South Africa's continued pursuit of a nuclear capability and all forms of nuclear collaboration by any State, corporation, institution or individual with the racist régime" and appealed "to all States that have the means to do so to monitor South Africa's research and development and production of nuclear weapons, and to publicize any information in that regard". Also, it demanded once again "that South Africa submit forthwith all its nuclear installations and facilities to inspection by the International Atomic Energy Agency".

- in resolution 41/55B, entitled "Nuclear capability of South Africa", the General Assembly noted with regret the non-implementation by South Africa of resolution GC(XXIX)/RES/442, adopted on 27 September 1985 by the Agency's General Conference, and expressed alarm "that South Africa's unsafeguarded nuclear facilities enable it to develop and acquire the capability of producing fissionable material for nuclear weapons". It condemned "all forms of nuclear collaboration by any State, corporation, institution or individual with the racist régime of South Africa, in particular the decision by some Member States to grant licences to several corporations in their territories to provide equipment and technical and maintenance services for nuclear installations in South Africa", expressed its full support "for the African States faced with the danger of South Africa's nuclear capability" and demanded "that South Africa and all other foreign interests put an immediate end to the exploration for, and exploitation of, uranium resources in Namibia". Also, it demanded once again "that South Africa submit forthwith all its nuclear installations and facilities to inspection by the International Atomic Energy Agency".

- in resolution 41/95 the Assembly requested the Security Council "urgently to consider the imposition of comprehensive and mandatory sanctions under Chapter VII of the Charter of the United Nations against the racist régime of South Africa", in particular, the cessation of all collaboration with South Africa in the nuclear field.

In decision 41/405 the General Assembly declared "that the colonial Territories and areas adjacent thereto should not be used for nuclear testing, dumping of nuclear wastes or deployment of nuclear and other weapons of mass destruction."

Action by the Director General

5. As reported in his oral statement to the Board of Governors at its February 1987 session, the Director General brought resolution GC(XXX)/RES/468 to the attention of the Secretary-General of the United Nations and the Chairman of the Special Committee Against Apartheid (see Annex B).

6. In the same oral statement the Director General also reported on consultations and correspondence with the South African authorities on the resumption of negotiations on the application of safeguards to South Africa's semi-commercial enrichment plant and on an invitation from the South African Government to him to visit South Africa.

Developments since the session of the Board of Governors in February 1987

A. Safeguards at the semi-commercial enrichment plant

7. On 25 February 1987, the South African Mission transmitted to the Director General a communication from the South African authorities. The Director General's initial reactions were communicated to the South African Mission in an aide-mémoire dated 4 March 1987. On 31 March 1987 a response was communicated orally by the Resident Representative of South Africa on the basis of a speaking note. These communications, together with the relevant previous correspondence, are reproduced in Annex C.

8. To assist the Board in its consideration of this matter, Annex D contains a summary of the negotiations and discussions on the application of safeguards at the semi-commercial enrichment plant. It also sets out the principal points of difference between the relevant provisions of the draft agreement prepared by the Secretariat and communicated to South Africa on 24 September 1984 and the amendments proposed by South Africa on 21 August 1986 and reported in summary in document GOV/INF/502 (paragraphs 11 and 12).

B. Safeguards at other facilities

9. Safeguards are being applied at the SAFARI research reactor (under the safeguards agreement reproduced in document INFCIRC/98) and at the KOEBERG nuclear power plant (under the safeguards agreement reproduced in document INFCIRC/244).

10. Negotiations with South Africa for the conclusion of the facility attachment for the hot cell laboratory at Valindaba took place from 30 March to 3 April 1987. The hot cell laboratory will be subject to safeguards whenever it contains safeguarded nuclear fuel from the Safari research reactor or the Koeberg nuclear power station. The negotiations proceeded satisfactorily and the facility attachment was agreed ad referendum. It will enter into force upon an exchange of letters, which were drafted during these negotiations.

11. In the communication from the South African authorities dated 25 February 1987, South Africa informed the Director General of the voluntary submission to safeguards of a radioactive waste repository under construction at Vaalputs (600 km north of Cape Town), the site of which is intended to be used also for the interim storage of spent fuel elements.



ANNEX A

International Atomic Energy Agency

GC(XXX)/RES/468
23 October 1986

GENERAL CONFERENCE

GENERAL Distr.

Thirtieth regular session
Agenda item 17
(GC(XXX)/789)

SOUTH AFRICA'S NUCLEAR CAPABILITIES

Resolution adopted during the 292nd plenary meeting, on 3 October 1986

SOUTH AFRICA'S NUCLEAR CAPABILITIES

The General Conference,

- (a) Having considered the annual report of the Agency for 1985 (GC(XXX)/775) and the report of the Board of Governors on South Africa's nuclear capabilities (GC(XXX)/785),
- (b) Recalling United Nations General Assembly resolutions 40/89 A and B on implementation of the Declaration on the Denuclearization of Africa and the nuclear capability of South Africa, General Assembly resolution 40/64 A on the apartheid policies of South Africa, and resolutions 40/97 A-F on the situation in Namibia resulting from the illegal occupation of the territory by South Africa,
- (c) Alarmed that South Africa's unsafeguarded nuclear facilities have enabled it to develop and acquire the capability of producing fissionable material for nuclear weapons,
- (d) Stressing that the acquisition of nuclear weapon capability by the racist régime constitutes a very grave danger to international peace and security and, in particular, jeopardizes the security of African States and increases the danger of the proliferation of nuclear weapons,
- (e) Bearing in mind that South Africa is strengthening her nuclear capabilities partly through the illegal acquisition of Namibian uranium, and
- (f) Stressing that, despite the requests of the General Conference and the international community, South Africa has persistently violated international law as well as the purposes and principles of the United Nations, upon which the IAEA's activities are based in accordance with Article III.B.1 of the Statute,

1. Takes note of United Nations General Assembly resolutions 40/89 A and B, 40/79 A-F, 40/415, 40/57, 40/64 E and 40/168 A and of General Conference document GC (XXX)/775;
2. Takes note with regret of the report by the Director General of the IAEA on the failure of South Africa to submit all its nuclear facilities to Agency safeguards;
3. Takes note of document GC (XXX)/785, which indicates in paragraph 119 of Annex 2 that "the Board agreed to transmit to the regular session of the General Conference the records of its discussions under that item since September 1985, together with the report of the Director General contained in document GOV/INF/502, to enable the General Conference to decide in terms of operative paragraph 14 of General Conference resolution GC (XXIX)/RES/442, adopted in 1985, on the appropriate action to be taken on that matter in accordance with the Statute.";
4. Demands once again that South Africa urgently submit forthwith all its nuclear installations and facilities to Agency safeguards;
5. Calls upon all Member States which have not yet done so to halt all nuclear co-operation with the racist régime of South Africa and, in particular, to end any assistance concerning the nuclear fuel cycle and the transfer of technology and all purchases of uranium from South Africa and to terminate forthwith all nuclear research contracts with South Africa;
6. Requests Member States to take all necessary measures to prevent any nuclear collaboration by all corporations and enterprises within and under their jurisdiction with South Africa;
7. Calls upon the Agency and Member States to refrain from participating in any expert meetings, panels, conferences or seminars in South Africa;
8. Demands that South Africa stop immediately the plundering and illegal mining, utilization, exploitation and sale of Namibian uranium;
9. Calls upon the Agency's Member States, particularly those whose corporations are involved in the mining and processing of Namibian uranium, to take all appropriate measures in compliance with United Nations resolutions and decisions and with Decree No. 1 for the protection of the natural resources of Namibia, including the practice of requiring negative certificates of origin, to prohibit State-owned and other corporations, together with their subsidiaries, from dealing in Namibian uranium and from engaging in any uranium-prospecting activities in Namibia;
10. Calls once again upon all Member States which have not yet done so to stop all purchases of Namibian uranium;

11. Considers that the continuation of South Africa's policies in disregard and in violation of the purposes and principles of the United Nations, upon which, in accordance with Article III.B of the Statute, the Agency's activities are based, constitutes a persistent violation of the provisions of the Statute within the meaning of Article XIX.B;

12. Requests the Board of Governors to consider recommending the suspension of South Africa from the exercise of the privileges and rights of membership in accordance with Article XIX.B of the Statute at the thirty-first session of the General Conference if, by that time, South Africa has not complied with the relevant General Conference resolutions and conducted itself in accordance with the purposes and principles of the Charter of the United Nations; and

13. Requests the Director General to bring this resolution to the attention of the Secretary-General of the United Nations.

ANNEX B

Director General's Statement to the
February 1987 Board of Governors

Extract from GOV/OR.665

The question of South Africa's nuclear capability was the subject of item 5(a) of the agenda. He wished to inform the Board of developments since the General Conference had discussed that matter at its thirtieth session, when it had adopted resolution GC(XXX)/RES/468. As requested in its operative paragraph 13, he had brought the resolution to the attention of the Secretary General of the United Nations in a letter dated 9 October 1986. He had written a similar letter on the same day to the Chairman of the Special Committee Against Apartheid. Consultations on both technical and legal aspects of the matter had been continued with the South African Mission with a view to advancing negotiations on the application of safeguards to South Africa's semi-commercial enrichment plant. South Africa had enquired whether the Secretariat was ready to resume negotiations on the basis of a revised draft put forward by South Africa at the end of August 1986, and on which a report had been made to the Board at its meetings in September 1986. On 25 November 1986, he had replied that the Secretariat was ready to resume discussions on all outstanding aspects of the agreement and proposed a technical visit for December 1986 so that there would be enough time to prepare the safeguards techniques and arrangements for their application to the plant before commissioning of the facility in 1987. In his reply, he had also recalled that, as pointed out to the South African representatives at the end of August 1986, their revised proposals contained certain features which would be unacceptable to the Board. He had indicated that since his report to the Board in September 1986, his views had been confirmed during informal discussions. In a letter dated 8 December 1986, South Africa had welcomed the Secretariat's readiness to resume negotiations but had informed him that it would not be possible to hold technical discussions in South Africa in September 1986. Nevertheless, the South African Government had invited him to visit South Africa in order to gain first-hand knowledge of the attitude prevailing there. After careful consideration, he had replied to South Africa

on 9 January 1987, stating that any visit by him to South Africa under the current circumstances would need to have sound justification; that he did not think such a visit was necessary for continued discussion of the outstanding matters concerning the application of safeguards to the enrichment plant; that those questions should be further discussed in advance, and preferably be settled before any visit; that, if he was to visit South Africa, the subjects for discussion would have to include the acceptance by South Africa of the application of safeguards to all its nuclear facilities, in accordance with the relevant operative paragraph of resolution GC(~~XXX~~)/RES/468 of the General Conference; and that he would wish to hold discussions with members of the South African Government responsible for that matter as well as those in charge of nuclear energy policy. So far he had received no reply to his letter of 9 January 1986, but would continue to keep the Board informed of developments.



PERMANENT MISSION OF SOUTH AFRICA
TO THE INTERNATIONAL ATOMIC ENERGY AGENCY

SANDGASSE 33, 1190 VIENNA
TELEPHONE 32 64 93 SERIE

9/2/16/2
Amb/BW
19 November 1986

Dear Dr Blix,

I wish to refer to the discussion which took place in Mr Herzig's office on 5 November 1986 between Mr C. Herzig and Mr A. von Baeckmann of the Agency and myself, relating to the revised draft safeguards agreement in respect of the semi-commercial enrichment plant, submitted by South Africa to the Agency as document Revision 2 dated 12 August 1986.

I have now been requested by my Government to ascertain from you whether the International Atomic Energy Agency is prepared to consider the South African proposals for a safeguards agreement in respect of the semi-commercial enrichment plant as set out in the aforesaid document Revision 2 dated 12 August 1986 in the course of further negotiations between the Agency and South Africa.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Steyn'.

Naudé Steyn
Resident Representative

Dr H. Blix
Director General
International Atomic
Energy Agency
Vienna International Centre
1400 Wien



INTERNATIONAL ATOMIC ENERGY AGENCY
AGENCE INTERNATIONALE DE L'ENERGIE ATOMIQUE
МЕЖДУНАРОДНОЕ АГЕНТСТВО ПО АТОМНОЙ ЭНЕРГИИ
ORGANISMO INTERNACIONAL DL ENERGIA ATOMICA

WAGRAMI RSTRASSI 5, P.O. BOX 100, A-1400 VIENNA, AUSTRIA. TLELEX: 1-12645, CABLE: INATOM VIENNA, TELEPHONE: 2360

IN REPLY PLEASE REFER TO
PRIERE DE RAPPELER LA REFERENCE

230-MB.SAF.11.1

25 November 1986

Dear Mr. Ambassador,

I refer to your letter of 19 November 1986 concerning the negotiations between the Agency and South Africa in respect to the conclusion of an agreement related to the application of safeguards at South Africa's semi-commercial enrichment plant.

The Secretariat is ready to resume discussions with South Africa both on the draft safeguards agreement and on the outstanding technical questions.

As regards the negotiation of the agreement itself, on the occasion of our last meeting on 29 August 1986 with your colleague, Mr. Worroll, and yourself, I informed you that certain of the proposals in Revision 2 of the draft, prepared by South Africa, contained fundamental issues which departed from the concept of safeguards agreements concluded on the basis of INFCIRC/66/Rev.2, and which hitherto had not been incorporated in any such agreement approved by the Board of Governors. I judged that an agreement incorporating these two new concepts would not prove acceptable to the Board and that therefore there was no purpose would be served by continuing discussions on that basis. As you know, I reported to the Board in this sense, and I must inform you that such discussions as I have had informally with Members of the Board since then have confirmed me in my judgement.

I would like to suggest that this point is borne in mind in any continuation of our discussions on the draft agreement and on the various suggested amendments put forward by South Africa.

H.E. Mr. N. Steyn
Ambassador to Austria
Permanent Mission of South Africa
Sandgasse 33
A-1190 Vienna

...2/

As regards the technical aspects of the application of safeguards at the enrichment plant, Messrs. Herzig and von Baeckmann explained that the resolution of these matters is essential some time in advance of the plant entering into operation in 1987. As they mentioned to you, both parties to the agreement will need to study, discuss and reach agreement on the detailed technical arrangements, including the installation of necessary safeguards equipment, so that safeguards can be implemented effectively. I am advised that such installation needs to be carried out and completed before nuclear material or hydrogen is introduced into the plant; otherwise it would be very difficult, if not in some cases impossible, to undertake this work. Moreover, as I mentioned to you at our meeting in August 1986, the credibility of safeguards at this plant will be seriously eroded if the safeguards cannot be applied as soon as the plant enters into operation.

Accordingly, if South Africa wishes to resume discussions on safeguarding the plant, I wish to emphasise that we need to tackle urgently the technical aspects outstanding, including the question of access and the technical measures to be taken, as well as negotiation of the outstanding points on the safeguards agreement itself.

Yours sincerely,

Hans Blix
Director General



PERMANENT MISSION OF SOUTH AFRICA
TO THE INTERNATIONAL ATOMIC ENERGY AGENCY

SANDGASSE 33, 1190 VIENNA ·
TELEPHONE 32 64 93 SERIE

9/2/16/2
Amb/BW
8 December 1986

Dear Dr Blix,

I refer to my letter reference 9/2/16/2 dated 19 November 1986 and your letter reference 230-MB.SAF.11.1 dated 25 November 1986 relating to the conclusion of an agreement on the application of safeguards at South Africa's semi-commercial enrichment plant.

I have now received a communication from the South African authorities in which the following points are made viz.

1. As clearly indicated previously the South African Government is prepared to negotiate an agreement on safeguards.
2. Your reply dated 25 November 1986 referred to above is understood to indicate that the IAEA is ready to resume discussions with South Africa both on the draft safeguards agreement and on the outstanding technical questions.
3. The South African Government welcomes this stance and in fact would welcome a visit from you in person to South Africa in order to assess directly the attitude prevailing in South Africa.
4. A visit by IAEA inspectors is acceptable in principle but the South African authorities see no point in evaluating monitoring actions until the discussions are positively under way and therefore cannot accede to the request that they visit South Africa in the current month of December.
5. Cognisance is taken of the technical aspects and requirements regarding plant operation if monitoring equipment is to be successfully installed.

I would be pleased to learn whether you would be able to accept the South African invitation to visit South Africa, hopefully in the near future.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Steyn' with a flourish at the end.

Naudé Steyn
Resident Representative

Dr H. Blix
Director General
International Atomic
Energy Agency
V i e n n a



INTERNATIONAL ATOMIC ENERGY AGENCY
AGENCE INTERNATIONALE DE L'ENERGIE ATOMIQUE
МЕЖДУНАРОДНОЕ АГЕНТСТВО ПО АТОМНОЙ ЭНЕРГИИ
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IN REPLY PLEASE REFER TO
PREMIERE DE RAPPELLE LA REFERENCE

230-MB.SAF.11.1

1987-01-09

Dear Ambassador,

Thank you for your letter of 8 December transmitting to me a number of points made by the South African authorities. Mr. Herzig has orally conveyed preliminary responses to some of these points. I should like to provide you now with a more detailed answer. It is naturally written on premises which conform with the positions taken by the Agency's Policy-making Organs.

The basic premise is - as indicated in GOV/INF/502(1986) - that South Africa, as a Member of the Agency, is accorded the right under the Statute to participate in activities open to all Member States except where a policy-making organ has explicitly determined otherwise, including the conclusion of safeguards agreements.

The next point is that for several years, in pursuance of General Conference Resolutions, I have communicated to South Africa the readiness of the IAEA Secretariat to discuss an agreement on full-scope safeguards. Although there has not so far been a response in this regard, the readiness for such discussions remains on the part of the Agency Secretariat.

A third point relates to discussions which have been held concerning a safeguards agreement relating exclusively to the semi-commercial enrichment plant. A good distance towards such an agreement has been travelled. Certain conditions advanced by South Africa in August 1986 were in my view not acceptable to the Board and further negotiations on the basis of them was not deemed useful. Other points made by South Africa in the discussions, both technical and legal, are considered to be susceptible of further discussion.

The Secretariat is certainly ready to continue these discussions in an effort to reach agreement. The technical points might indeed soon be resolved through such discussions. However, a visit by IAEA technical experts to the enrichment plant would still be needed in the context of resumed discussions in order to define the safeguards approach in good time before the plant enters operation. This visit could follow rather than precede the resumption of discussions, if this were preferred and the timetable for the plant allowed it.

H.E. Mr. N. Steyn
Ambassador to Austria
Permanent Mission of South Africa
Sandgasse 33
A-1190 Vienna

On the question of a visit by me to South Africa to assess directly the attitude prevailing in South Africa, may I say the following: In the current situation any such visit would need to have a very clear objective in order to be understood and to be acceptable to the Member States of the IAEA. I do not believe that further discussions limited to safeguards on the semi-commercial enrichment plant really require my participation. Rather, progress in those discussions and preferably a settling of all outstanding points would be needed first, lest a visit on my part might be interpreted as relating to this agreement only. I would find it hard to justify a visit unless it was understood that it would concern - though not necessarily exclusively relate to - the main matter in relation to South Africa which has been urged upon me by the IAEA General Conference, namely the discussion of full-scope safeguards, and would involve persons at the political level in addition to those who have direct responsibility for the nuclear programme.

In the various talks which I have had with South African representatives here in Vienna, I have repeatedly stressed the advantages which I think could conceivably flow from a full-scope safeguards agreement, although as Director General, I am not, of course, in a position to offer anything but the actual negotiation of such an agreement.

Yours sincerely,

Hans Blix
Director General



PERMANENT MISSION OF SOUTH AFRICA
TO THE INTERNATIONAL ATOMIC ENERGY AGENCY

SANDGASSE 33, 1190 VIENNA
TELEPHONE 32 64 93 SERIE

9/2/16/2

25 February 1987

Dear Mr Blix

I have the honour to refer to your letter of 9 January 1987 regarding a possible visit by you to South Africa.

In reply, the relevant South African authorities requested me to convey the following:

"South Africa has on many occasions clearly stated its nuclear policy and its position with regard to the Non-proliferation Treaty and Safeguards, notably on the 31st January 1984 in a press release by the then Executive Chairman of the South African Atomic Energy Corporation.

Specifically, the South African Government has given the undertaking that it will conduct and administer its nuclear affairs in a manner which is in line with the spirit, principles and goals of the NPT and the Nuclear Suppliers' Group Guidelines (INFCIRC 254).

Furthermore, South Africa has stated its willingness to resume discussions on Safeguards with the IAEA, with respect to its semi-commercial enrichment plant, but that it could not agree to Safeguards before greater clarity has been reached on what would be expected of it under a Safeguards Agreement. The South African Government has also declared that it remains willing to consider accession to the NPT, provided its basic requirements could be met. Under the present international situation where punitive sanctions and boycotts are being imposed on South Africa by the international community, its basic requirements are certainly threatened.

Nonetheless, the negotiations on a Safeguards Agreement on the semi-commercial enrichment plant were viewed by South Africa as a

2./...

first step in its consideration of accession to NPT, provided an equitable Safeguards Agreement could be negotiated. To this end and in good faith, South Africa presented a draft Safeguards Agreement to the IAEA according to which its basic requirements could be satisfied, even in the present international situation. This agreement is, according to our interpretation, within the requirements of the statutes of the IAEA. It was, therefore, noted with regret that the draft agreement was not presented for due consideration to the Board of Governors. South Africa, however, is aware that other non-NPT members of the IAEA share its position with regard to the voluntary submission to Safeguards of nuclear installations erected without outside assistance.

Apart from the semi-commercial enrichment plant, South Africa has also voluntarily submitted two other installations to Safeguards, viz. the hot cell facility and the Vaalputs radioactive waste repository.

With regard to the IAEA's demands that South Africa accepts full-scope Safeguards on all its nuclear facilities, South Africa maintains its position that the IAEA has no right under its statutes to make demands on any of its member states other than to demand that as members, they will uphold the statutes of the IAEA and honour all obligations assumed under any agreement, such as Safeguards Agreements, concluded with the IAEA.

The South African Government, as a founder member of the IAEA, wishes to reaffirm that it has always, on its part, upheld the statutes and goals of the IAEA and categorically rejects any allegations to the contrary. Furthermore, South Africa as a sovereign state cannot, and will not, accede to unconstitutional and unreasonable demands by the IAEA. The South African Government also wishes to reiterate that it believes in the universality of membership of the IAEA and equitable participation in the IAEA's activities by all members.

The IAEA's actions in the past, whereby South Africa has been excluded from participating on a non-discriminatory basis in the activities of the IAEA, and to exercise its full rights as a member, are strongly deplored.

In the circumstances outlined above, and in view of the prevailing intransigent attitude towards South Africa, the South African Government regretfully is inclined to agree with the Director General's decision that no useful purpose could be served by further negotiations on the basis of South Africa's draft agreement. It must be emphasised that the essence of the South African proposal is to confirm the non-production of nuclear explosive devices, and this purpose is now frustrated by the decision which derives from the general attitude to South Africa, which prevails in the policy-making bodies of the IAEA. As long as South Africa's special concerns and bona fides are not recognised, the usefulness of negotiations remains questionable.

The reluctance of the Director General to accept the South African Government's invitation to visit South Africa to discuss these issues is noted with regret."

Please accept, Sir, the assurances of my highest consideration.



ALTERNATE RESIDENT REPRESENTATIVE

Mr Hans Blix
Director General
International Atomic Energy Agency
VIENNA

AIDE MEMOIRE

1. The Director General has, upon his return to the office on 27 February 1987, read Mr. Scholtz' letter of 25 February 1987 and the communication from the South African authorities contained therein.

2. The Director General's initial reactions to specific points made in the letter are as follows:
 - (a) he notes with interest South Africa's willingness to resume discussions on the application of safeguards to its semi-commercial enrichment plant and its wish for greater clarity on what would be expected of South Africa under a safeguards agreement;

 - (b) he welcomes South Africa's declaration that it remains willing to consider adherence to the NPT, provided that its basic requirements could be met;

 - (c) he notes that South Africa viewed the negotiation of the safeguards agreement on the semi-commercial enrichment plant as a first step in its consideration of accession to NPT;

 - (d) from the proposals made by South Africa in its draft of the safeguards agreement of August 1986, the Director General understands South Africa's 'basic requirements' to comprise:
 - (i) the right to withdraw nuclear material under safeguards for use for non-explosive military purposes;

 - (ii) the right to terminate the agreement in the event of South Africa deciding that extraordinary events related to the agreement have jeopardised its supreme interests, or by reason of curtailment etc. of any privilege or right of membership of the Agency to which South Africa is entitled.

3. With regard to the reactions set out in paras 2(a) to (d) above, the Director General wishes to make the following observations:

- (a) South Africa's right, as a member of the Agency, to propose a safeguards agreement on the basis of its draft of August 1986 is not in dispute. Nonetheless all safeguards agreements, as is known, require the approval of the Agency's Board of Governors before the Director General can sign them and the Secretariat implement them. The Director General has the responsibility to inform South Africa if, after informal consultations with members of the Board, the agreement on the basis proposed by South Africa would not secure the approval of the Board as a whole, as was the case in this instance.

There are, however, still a number of outstanding matters pertaining to the safeguards agreement on the semi-commercial enrichment plant, in addition to the question of the basic requirements raised by South Africa. In his letters to the Resident Representative dated 25 November 1986 and 9 January 1987 the Director General referred to these and, in particular, to the strong reasons for reaching agreement on the outstanding technical aspects in advance of entry of the plant into operation. The Director General suggests that it would still be desirable to resume the technical discussions quickly, separately from pursuing further discussion of the draft of the agreement itself. The Secretariat is ready to do this straightaway.

- (b) However, if South Africa were to adhere to the NPT and by doing so accept safeguards on all nuclear material used in its peaceful nuclear activities, the ensuing safeguards agreement would cover, inter alia, its semi-commercial enrichment plant; it would also appear to achieve two of South Africa's basic requirements viz. to have the right to withdraw nuclear material under safeguards for non-proscribed (non-explosive) military purposes (in accordance with para. 14 of INFCIRC/153); and to withdraw from the Treaty (and in consequence from the agreement) if South Africa's supreme national interests are jeopardised (in accordance with Article X of the Treaty). In such an event the application of safeguards under existing agreements would be reactivated. The third requirement relating to rights and privileges

of membership would still be unlikely to secure approval of the Board of Governors since it would appear to derogate from the Statute of the Agency.

4. More generally, concerning the conditions of participation of South Africa in the Agency, if it were to join the NPT, this is not within the hands of the Director General. Principally it would be a matter for South Africa to pursue with individual Member States and for Member States to consider in consultation with each other. The Director General could, if this were desirable, use his good offices for consultations.

5. In addition the Director General suggests that early ratification by South Africa of the two Conventions on Early Notification and Emergency Assistance in the Event of a Nuclear Accident would be regarded as a positive step forward. Both these Conventions have now entered into force.

6. He asks whether Dr. de Villiers, perhaps together with a senior official from the Ministry of Foreign Affairs, might wish to visit Vienna again. If so, the Director General would be very glad to see them.

4 March 1987

NOTES FOR DISCUSSION ON 31 MARCH 1987

1. The invitation to Director General Blix to visit South Africa is still valid and he is very welcome to visit South Africa in his personal capacity or otherwise.
2. The South African position has been clearly stated in recent communications to the IAEA.
3. However, in case a certain point is not yet clear to the IAEA, it should be mentioned that South Africa's recent indication that it remains willing to consider accession to the NPT, provided its basic requirements could be met, referred to South Africa's January 1984 policy statement.
4. It is the view of the South African Government that the negotiations on a safeguards agreement on the semi-commercial enrichment plant were broken off by the IAEA.
5. In these circumstances and until agreement can be reached on the revised South African text, there is no point in proceeding with the technical discussions.
6. It remains South Africa's point of view that the successful conclusion of a safeguards agreement on the semi-commercial enrichment plant would be seen by South Africa as a first step in its consideration of accession to the NPT.

SUMMARY OF NEGOTIATIONS ON APPLICATION OF SAFEGUARDS
FOR THE SEMI-COMMERCIAL ENRICHMENT PLANT

1. In August 1976 South Africa wrote to the Agency stating its intention to submit a planned commercial enrichment plant to Agency safeguards, and inviting the Agency to consider the content of an appropriate safeguards agreement. Such an agreement was prepared by the Agency and communicated to South Africa in February 1977. In content it followed the pattern of agreements based on INFCIRC/66/Rev.2 with an additional provision to deal with the procedures for safeguarding the plant, since INFCIRC/66/Rev.2 gives no specific guidance on such procedures as regards enrichment plants.
2. In June 1977 South Africa informed the Agency that, since decisions had yet to be taken on the capacity of the plant, it would be premature to provide the design information required for formulating the safeguards approach for the plant.
3. The matter rested there until 31 January 1984 when the South African authorities issued a press release^{*/} which included a reference to its readiness to resume discussions on safeguards in respect of the semi-commercial enrichment plant.
4. A first round of negotiations took place in August 1984. The Agency agreed to prepare a revision of the earlier draft agreement of 1977. This was sent to South Africa on 24 September 1984. South Africa agreed to provide technical safeguards-related information about the plant, for study by the Agency.

^{*/}
- INFCIRC/314

5. A second round took place in February 1985. This included discussion of both the draft agreement and of the design information provided by South Africa. It was agreed that negotiation of the agreement and of the subsidiary arrangements should proceed in parallel, so that technical issues concerning the safeguards approach could be identified and clarified in advance of submission of the safeguards agreement to the Board of Governors.

6. On 27 February 1985 the South African Atomic Energy Corporation issued a press release stating that erection of the enrichment plant was progressing according to plan, and confirming that it should be commissioned in approximately 2 years' time.

7. Following further technical discussions at end-May 1985, an Agency team visited South Africa and the enrichment plant in August 1985, but not the sensitive cascade area of the plant.

8. On 23 October 1985 the Agency communicated its draft safeguards approach for the plant to South Africa.

9. The third round took place on 18 April 1986. The South African representatives informed the Agency that the South African Government wished to proceed as soon as possible with the draft agreement with a view to submission of it to the Board of Governors for its June 1986 meeting. They suggested that the subsidiary arrangements should be sufficiently completed for the necessary safeguards procedures, including inspections, to be agreed upon before the plant came into operation.

10. The Agency agreed to try to complete the negotiation of the safeguards agreement in time for it to be submitted to the June 1986 meeting of the Board of Governors. It accepted that the subsidiary arrangements could be concluded later, so long as South Africa signified its agreement to the principles of the technical safeguards approach for the plant before the agreement was submitted to the Board, including the Agency's need for access to the cascade area.

11. The draft safeguards agreement was discussed. In addition to a number of detailed amendments, South Africa stated its wish that the basic undertaking in the agreement should be modified so as to allow for the use of material processed in the plant for military non-explosive purposes. The Agency explained that such a provision would not be acceptable in an agreement of the nature proposed, which had been prepared on the basis of INFCIRC/66/Rev.2.

12. Following the meeting the Agency prepared a further draft of the agreement which was communicated to South Africa on 22 April 1986.

13. No further communication was received from the South African authorities until 21 August 1986 when they put forward a draft of the agreement containing the fundamental changes reported by the Director General in GOV/INF/502 (paras 11 and 12). The relevant extracts of the Secretariat and the South African drafts of the agreement are attached to provide detailed information.

14. Developments since the Board's discussion of the matter in September 1986 have already been described.

Attachment

Main differences between Secretariat and South African
drafts of the Safeguards Agreement for the
Semi-Commercial Enrichment Plant

1. The Secretariat draft is based on INFCIRC/66/Rev.2 and on the provisions laid down in the Annex of GOV/1621 related to the duration and termination of the Agreement.

2. The draft provisions on which the main differences have arisen are as follows:

(a) Undertaking by South Africa (Section 2)

Secretariat draft

"South Africa undertakes that none of the following nuclear facilities or nuclear material shall be used for the manufacture of any nuclear weapon or to further any other military purpose or for the manufacture of any other nuclear explosive device:

- (a) The Uranium Enrichment Plant;
- (b) Nuclear material in the Uranium Enrichment Plant;
- (c) Nuclear material, including subsequent generations of special fissionable material, which is produced, processed or used in or on the basis of or by the use of the Uranium Enrichment Plant, any other nuclear facility or any nuclear material referred to in this Section.
- (d) Any other nuclear facility or nuclear material required to be listed in the Inventory referred to in Section 10."

South African draft

"South Africa undertakes that none of the following nuclear facilities or nuclear material shall be used for the manufacture of nuclear weapons or any other nuclear explosive device:

- (a) The Uranium Enrichment Plant;
- (b) Nuclear material in the Uranium Enrichment Plant;
- (c) Any other nuclear facility or nuclear material required to be listed in the Main Part of the Inventory referred to in Section 10;
- (d) Nuclear material, including subsequent generations of special fissionable material, which is produced, processed or used in or by the use of
 - (i) The Uranium Enrichment Plant; or
 - (ii) any other nuclear facility referred to in this section; or
 - (iii) any nuclear material referred to in this section."

(b) Duration of the Agreement

Secretariat draft

"This Agreement shall remain in force until safeguards have been terminated in accordance with its provisions, on all nuclear material, including subsequent generations of produced special fissionable material, subject to safeguards under this Agreement, and all nuclear facilities referred to in Section 2, or as may be otherwise agreed between the Agency and South Africa."

South African draft

"This Agreement shall terminate and shall be of no further force or effect

- (i) upon the termination in accordance with the provisions of Section 21^{*} of safeguards on all nuclear material, including subsequent generations of produced special fissionable material, subject to safeguards under this Agreement, and on all nuclear facilities referred to in Section 2; or
- (ii) upon receipt by the Agency of written notification from South Africa of termination of this Agreement by reason of the curtailment, suspension or withdrawal, otherwise than in accordance with the provisions of Article XIX of the Agency's Statute, of any privilege or right of membership of the Agency to which South Africa is entitled.

South Africa shall, in exercising its national sovereignty, have the right to terminate this Agreement if it decides that extraordinary events related to the subject matter of this Agreement have jeopardised the supreme interests of its country. Notice of such termination shall be given to the Agency three months in advance and such notice shall include a statement of the extraordinary events which South Africa regards as having jeopardised its supreme interests."

(c) In addition, pursuant to the amendment proposed by South Africa to the provision concerning the Undertaking by South Africa, which would have the effect of permitting the use of safeguarded nuclear material for military non-explosive purposes, South Africa proposed a new provision as follows:

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

* The provisions of Section 21 concerning termination of safeguards are identical in both draft agreements.

- (a) South Africa shall inform the Agency of the activity, making it clear:
- (i) That the use of nuclear material in a non-proscribed military activity will not be in conflict with an undertaking South Africa may have given and in respect of which Agency safeguards apply, that the 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) South Africa 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 has ceased to be used in such activity. The Agency shall be kept informed of the total quantity and composition of such unsafeguarded material in South Africa and of any export of such 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, but shall not involve any approval or classified knowledge of the military activity or relate to the use of the nuclear material therein."

ATTACHMENT 3

Summary records of the discussion on the item
"South Africa's nuclear capabilities"
at meetings of the Board of Governors
held in February and June 1987

RECORD OF THE 670th MEETING (held on 20 February 1987)

(e) SOUTH AFRICA'S NUCLEAR CAPABILITIES (GC(XXX)/RES/468)

74. The CHAIRMAN said that the present item had been enscribed on the Board's agenda pursuant to resolution GC(XXX)/RES/468, adopted by the General Conference the previous year. From what the Director General had said in his statement at the outset of the present series of meetings, it appeared that the situation had not changed since the item had last been discussed in the Agency's policy-making organs.

75. Mr. OLUMOKO (Nigeria) thanked the Director General for his statement of the previous day, in which he had mentioned the latest developments in his contacts with South Africa regarding safeguards agreements on that country's nuclear facilities. He also commended the Director General on the sensitivity, wisdom and tact he had shown in his handling of South Africa's invitation to him. Nigeria agreed with the view that any visit to South Africa should have some justification beyond consideration of its semicommercial enrichment plant, particularly in the light of operative paragraph 4 of resolution GC(XXX)/RES/468. It was a matter for concern that South Africa could use such visits for its own selfish propaganda and political ends, and he agreed, therefore, that such a visit would be inopportune.

76. As to the inconclusive discussion on contacts between the Agency and South Africa, he was not surprised that no progress had been made. South Africa had put forward unacceptable conditions which would compromise the very basis of a safeguards agreement and make a farce of the safeguards regime, which was one of the foundations of the Agency's existence. It was a regular pastime of the racist régime to engage in diversionary moves on the eve of Board meetings in order to play for time while perfecting its nuclear weapons technology, terrorizing the black population and destabilizing neighbouring countries.

77. It was against that background that the thirtieth session of the General Conference had, with wide support, adopted resolution GC(XXX)/RES/468, operative paragraph 12 of which requested the Board of Governors to consider recommending the suspension of South Africa from the exercise of the privileges and rights of membership in accordance with Article XIX.B of the Statute at the thirty-first session of the General Conference if, by that time, South Africa had not complied with the relevant General Conference resolutions and conducted itself in accordance with the purposes and principles of the Charter of the United Nations.

78. Clearly, the General Conference and the Board had been extremely patient with South Africa, in view of that country's inhuman policies, its flagrant violation of the Agency's Statute and its disregard for various resolutions. Sanctions by the Agency were now long overdue, but even so the resolution before the Board had given South Africa a new opportunity to comply with previous General Conference resolutions, failing which the Agency should take the necessary steps.

79. By way of corroboration of the concern expressed by the Director General the previous day, Nigeria had reliable information that South Africa would soon be selling reprocessing services from its unsafeguarded semi-commercial plant, if it was not doing so already. It was now obvious that that plant might go into regular operation without the application of Agency safeguards, in addition to which there was the danger that South Africa might sell quantities of highly enriched products to other countries, also without safeguards. Needless to say, that had major implications for any non-proliferation regime. South Africa had no peaceful or honourable intentions and, before the world knew it, it would be detonating - as it had already done in 1979 - another nuclear device, with the obvious danger that represented for other countries.

80. Board Members were probably aware that South Africa had plans to build a nuclear missile site at Marion Island in the Antarctic. Knowledgeable sources had long been of the view that that site had military implications and that it was there that South Africa had probably exploded its nuclear device in 1979. There had recently been reports that South African and Israeli

military officers had been seen on the island, and Nigeria believed that the 1979 test had been conducted by South Africa with Israeli assistance - a view recently corroborated by revelations made by an Israeli nuclear technician in the Sunday Times.

81. Turning to nuclear collaboration between certain Western countries and South Africa, he said that such collaboration violated the Agency's Statute and resolutions, as well as the Security Council's arms embargo on South Africa. In a recent case, a country had agreed to supply South Africa with equipment, material, and technology for building submarines. That country had also consistently been implicated in nuclear collaboration with South Africa; however, in deference to the Board, he did not wish to name names.

82. Another aspect of the South African nuclear nuisance was the dumping of nuclear wastes in Valpoots, in relation to which he wished to make three points. First, South Africa claimed that the area of Valpoots was uninhabited. In the language of apartheid, however, that simply meant that no whites lived there. Second, Valpoots was close to Namibia, but, owing to South African occupation of that country, any opposition to the disposal of nuclear wastes was brutally suppressed. Nigeria realized that nuclear waste disposal was a very sensitive issue which many countries with nuclear programmes approached cautiously, in view of public opinion. In South Africa it was different: that country was unilaterally sentencing its own black population and that of Namibia to a premature death from radioactivity. Third, in spite of calls by the General Conference for the Agency to cut South Africa off from all meetings, that country had used links established by means of Agency meetings to persuade people to attend an international meeting on nuclear wastes in South Africa.

83. South Africa was the only country whose system was based on institutional racism. That was a gross violation of the purposes and principles of the United Nations, in which, according to Article III.B of its Statute, the Agency's activities were rooted. Pursuant to Article XIX.B of the Agency's Statute, therefore, South Africa should cease to enjoy the privileges and rights of membership of the Agency.

84. In conclusion, he stressed that South Africa had failed to behave as a responsible Member of the Agency. It had treated the Agency's resolutions with contempt and had handled its safeguards obligations in the most casual manner. He therefore requested the Board to give serious consideration to the South African problem at its meetings in June, with a view to making specific recommendations to the General Conference at its thirty-first regular session, pursuant to operative paragraph 12 of resolution GC(XXX)/RES/468.

85. Mr. HIREMATH (India), referring to the Director General's report on the matter of South Africa's nuclear capabilities, said that he was deeply disappointed at the lack of any real progress in bringing the Pretoria régime under any form of international discipline. The situation of stalemate now prevailing in that country was a matter of serious concern to all. Its rulers were not only oppressing the majority of its population, but had also set out on a systematic programme to destabilize neighbouring States. Under those circumstances, all right-minded people could only deplore the addition of a new dimension of brute force, in the form of nuclear capability, to a régime that had distinguished itself only by its racist and inhuman practices.

86. It would be appropriate, he felt, to mention the recent New Delhi summit of nine non-aligned countries, which had decided to launch the "AFRICA (Action for the Fight Against Racism, Invasion and Colonialism in Africa) Fund". Its purpose was to support the struggle of the Frontline States which had come under intense economic pressure from South Africa as a result of having stood up to it in defence of human rights in that country.

87. It was indeed unfortunate that the situation created by Pretoria's intransigence and utterly unacceptable policies had become worse since the General Conference had adopted resolution GC(XXX)/RES/468. His delegation would, therefore, support every possible measure to assist those forces both within and outside South Africa which were struggling for basic human decency within that country.

88. Mr. HAVEL (Czechoslovakia) said that his delegation was deeply concerned by the fact that, despite all the efforts made by the Director General to that end, South Africa had not as yet taken any steps to demonstrate its intention of implementing resolution GC(XXX)/RES/468.

89. The establishment of a nuclear capability by the racist régime of South Africa represented a most serious danger to peace and security in the world, and increased the risk of nuclear weapons proliferation. It was, moreover, a particular threat to the peoples of Africa.

90. He therefore recommended that the Board move rapidly to implement the measures called for in resolution GC(XXX)/RES/468.

91. Mr. ZHOU (China) said that the South African régime had consistently refused to abide by the Agency's decisions. China supported the demands of the African States and the position taken by the Secretariat on the matter.

92. Mr. USTYUGOV (Union of Soviet Socialist Republics) said that his delegation had listened closely to the Director General's oral report concerning the implementation of resolution GC(XXX)/RES/468, and that it fully supported the steps taken by him in that regard. It was highly regrettable that the South African authorities were continuing, as before, to ignore the provisions of that resolution.

93. The Soviet Union shared the view expressed by many Governors that South Africa's persisted attempts to establish a nuclear capability outside the framework of Agency safeguards represented a serious threat to peace and security, above all on the African continent.

94. In its unwillingness to meet the demands of the vast majority of the world's countries, clearly expressed in the resolution before the Board, Pretoria, as was clear from the Director General's statement, employed quite open delay tactics in its talks with the Agency.

95. It was absolutely clear that all countries with a real interest in strengthening the international non-proliferation regime should increase their pressure on the South African authorities to implement resolution GC(XXX)/RES/468 very soon.

96. Mr. AL-KITAL (Iraq) said that his delegation fully supported the statement made by the Governor from Nigeria. The racist Pretoria régime still maintained its ferocious campaign against the people of South Africa, and its

policy of apartheid, which represented a political danger, a blatant violation of human rights and a challenge to all the values commonly upheld throughout the world, posed a military threat both within the African continent and beyond.

97. South Africa's development of its nuclear capability through dealings with the racist régime of Israel and with other nuclear States known to give support to Pretoria on various levels, was a matter of the greatest concern to Africa and to all peace-loving forces throughout the world. Those countries that supported Pretoria and collaborated with it in the nuclear energy field would be legally responsible for all South Africa's military crimes in the future, both within and beyond its borders.

98. In conclusion, Iraq supported all measures designed to bring South Africa's nuclear capabilities under international control as well as those aimed at prohibiting all dealings with South Africa on the part of any country.

99. Mr. SHAKER (Egypt) said that the Director General's contacts with the South African Government had been fruitless: South Africa had not budged from its intransigent rejection of the Agency's demands and was continuing to devote enormous resources to developing its nuclear capabilities. It was now able to produce fissionable materials for the construction of weapons, with which it threatened the security of African States, and it still refused to place its nuclear facilities and installations under Agency safeguards. All countries which had not yet done so should halt all nuclear co-operation with South Africa and any assistance involving the nuclear fuel cycle, and put an end to transfers of technology and purchases of uranium involving that country.

100. Mr. NANIOV (Bulgaria) said that his delegation fully supported the Director General's efforts to secure implementation of resolution GC(XXX)/RES/468 and endorsed his position on South Africa's nuclear capabilities. The apartheid régime was continuing to ignore the Agency's demands that it submit its nuclear-related activities to Agency inspection and end its illegal exploitation of Namibia. Bulgaria joined the chorus of

delegations calling for sanctions against South Africa and full implementation of the Agency's resolution, and fully shared the concerns expressed by the Governor from Nigeria.

101. Mr. MORPHET (United Kingdom) said his delegation was opposed to apartheid and concerned about the lack of progress in the safeguards negotiations. The United Kingdom wished to see the rapid conclusion, on the basis of the Secretariat's proposals, of an agreement on safeguards for the semicommercial enrichment plant.

102. Mr. ABDELBARI (Algeria) said that not much progress had been made since the most recent session of the General Conference towards establishing controls over South Africa's nuclear capabilities. The racist régime continued arrogantly to reject international appeals that it end apartheid, cease the illegal exploitation of Namibia's resources and remove the threat posed by its nuclear facilities. The time had come to take a harder line: while continuing with efforts to induce South Africa to apply the relevant United Nations and Agency resolutions, the Board should use the period remaining before its meetings in June to take stock of the situation and decide on appropriate measures.

103. Mr. EL KHANGI (Sudan) said that his delegation fully subscribed to the views expressed by the Governor from Nigeria.

104. The CHAIRMAN suggested that the Board request the Director General to continue his efforts, which constituted only part of the measures contemplated by the General Conference, and report to it at its June meetings so that it might consider the nature of its recommendations pursuant to operative paragraph 12 of General Conference resolution GC(XXX)/RES/468 to the General Conference at its thirty-first regular session.

105. It was so agreed.

106. The CHAIRMAN said that an item entitled "South Africa's nuclear capabilities" would be placed on the provisional agenda for the Board's meetings in June.

PROVISIONAL RECORD OF THE 671st MEETING (held on 9 June 1987)

STATEMENT BY THE DIRECTOR GENERAL

46. South Africa's nuclear capabilities figured once again on the Board's agenda. It would be seen from document GOV/INF/523 that there had been no substantive progress since the Board's February meetings, or indeed since the thirtieth regular session of the General Conference. There had, however, been several communications between the South African authorities and the Secretariat concerning matters relating to safeguards, as well as an invitation which he had received from the South African Government to visit South Africa, as he had reported to the Board in February. He had circulated the relevant correspondence as Annex C of document GOV/INF/523 so as to assist the Board in its consideration of that agenda item.

PROVISIONAL RECORD OF THE 676th MEETING (held on 12 June 1987)

SOUTH AFRICA'S NUCLEAR CAPABILITIES (GC(XXX)/RES/468, GOV/INF/523, GOV/2311)

125. The CHAIRMAN recalled that in February the Board had requested the Director General to continue his efforts and to report to it in June, so that it might consider the nature of its recommendations to the General Conference, pursuant to operative paragraph 12 of resolution GC(XXX)/RES/468. The Board now had before it document GOV/INF/523, containing information on developments relating to the matter since the adoption by the General Conference of resolution GC(XXX)/RES/468, and also document GOV/2311, which contained a draft resolution submitted by Algeria on behalf of the Group of 77. He suggested that the Board should take account of the draft resolution in its deliberations on the matter and called upon the Governor from Nigeria to present the draft resolution.

126. Mr. OLUMOKO (Nigeria) said that operative paragraph 4 of the draft resolution set forth in document GOV/2311 contained the recommendation which the Board had been requested to consider making to the General Conference with regard to South Africa. Knowing that the Board adhered to the principle of consensus, he hoped that the recommendation would be adopted by consensus.

127. Mr. HIREMATH (India) recalled that, in resolution GC(XXX)/RES/468, the General Conference had requested the Board "to consider recommending the suspension of South Africa from the exercise of the privileges and rights of membership in accordance with Article XIX.B of the Statute at the thirty-first session of the General Conference if, by that time, South Africa has not complied with the relevant General Conference resolutions and conducted itself in accordance with the purposes and principles of the Charter of the United Nations". Since then, the South African Government had set little store by the Agency and even less by the Charter of the United Nations. What was happening in South Africa was appalling, and he hoped that all right-thinking people would share his opinion. The Indian Government wished for an end to be put to the racist policy of apartheid so the vast majority of the population could once again live under conditions of human dignity. The Board had no

reason to believe or to hope that the South African régime now had any intention of behaving in conformity with the purposes and principles of the Charter of the United Nations.

128. His Government therefore supported the recommendation proposed to the Board by the African Members of the Agency and by the other countries most directly affected by the scandalous policies of the minority racist Government of South Africa. He associated himself with the Governor from Nigeria in expressing the hope that, in accordance with the Board's tradition, the draft resolution would be adopted by consensus.

129. Mr. MORPHET (United Kingdom) said that his country's opposition to apartheid was long-standing and deep, and that the United Kingdom had joined other participants in the recent Venice summit meeting in condemning the racist policy of apartheid and acknowledging by common agreement that it would be possible to find a peaceful and lasting solution to that matter only if the apartheid régime was dismantled and replaced by a democratic government.

130. His delegation was suprised, however, that the African Group's draft resolution should have come before the Board at the present time, since, under the terms of resolution GC(XXX)/RES/468, the matter was to be reconsidered 12 months, rather than nine months later. The draft resolution thus appeared to run counter to the very spirit and purpose of the General Conference resolution. In his view, there was a need to ascertain whether, from the legal point of view, the draft resolution and the recommendation and conclusions contained therein were or were not compatible with the General Conference's conclusions regarding the time that should be allowed for a change to take place. That matter was not one to be taken lightly. It was clear that the General Conference had envisaged a period of one year. It was equally clear that if the draft resolution were to be adopted now, the Board would not have had at its disposal the period of time fixed by the General Conference. For those reasons he was broaching the matter from the legal point of view and requesting the Secretariat to consider it and to report in due course to the Board.

131. Mr. KENNEDY (United States of America) said that his country's point of view on the matter of South Africa was clear, coherent and categorical. More than any other country, the United States had taken vigorous measures - scarcely followed by other United Nations Members - against South Africa.

132. His delegation had noted with satisfaction the progress made in concluding a facility attachment for the hot laboratory at Valindaba, and the efforts undertaken by the Secretariat, upon instruction from the Director General, with regard to the negotiations on the application of safeguards at the semi-commercial enrichment plant. The Secretariat rightly felt that certain elements of the agreement would have been unacceptable to the Board. All the same, it had resumed its technical discussions with the South African Government, aimed at formulating a draft agreement which would be satisfactory to the Board and altogether in conformity with the request of the General Conference. The United States regretted that the safeguards agreement had not yet been concluded and called urgently upon the the South African Government to undertake further negotiations on the technical aspects of the safeguarding technique envisaged in the Agency's draft.

133. He had listened with interest to the remarks made by other Board Members in support of the draft resolution contained in document GOV/2311. While respecting the opinions expressed and understanding perfectly the political impulses which had given rise to that proposal to punish a repugnant racist Government, he wished to reaffirm that the United States Government was strongly opposed to a measure which was unlawful, short-sighted and contrary to the objectives which the proponents of the draft resolution sought to achieve.

134. It was fair to say that all right-thinking governments shared the view that the racist apartheid régime must be dismantled, that an end must be put to South Africa's illegal exploitation of Namibian resources and also to South Africa's threats against neighbouring States, and that all of South Africa's nuclear activities must be brought under Agency safeguards, as in other countries. However, he could not agree with the simplistic and ineffective idea that suspending South Africa from the exercise of its privileges and

rights of membership would advance the cause of racial justice and stability in the region. On the contrary, adoption of the draft resolution would make it even more difficult to achieve the objectives sought by its sponsors. In addition, and more importantly, it would severely injure an important international organization which played a key role in the area of the peaceful and safe uses of nuclear energy. It was the failure to foresee the long-term effects in a wider context which most troubled his Government. His delegation honestly believed that the sponsors of the draft and those who supported it out of sympathy or solidarity had perhaps not weighed carefully the underlying reasons why depriving South Africa of its privileges was simply a bad idea.

135. It seemed worth while to summarize the ten important arguments which had led the United States to oppose the draft resolution, any one of which would alone be suffice to justify that opposition. He urged the Members of the Board to think about those arguments, which were not rhetorical, but directly relevant to the very role of the Agency and to the cause of nuclear peace, upheld by all Members of the Board.

136. The draft resolution was unlawful. No valid grounds had been adduced in accordance with Article XIX of the Agency's Statute. There was no convincing evidence that South Africa had persistently violated the Statute. The authors of the draft resolution had presented only conclusions drawn from politically motivated resolutions of various United Nations bodies. That factitious legal argument was without merit.

137. The draft resolution was inconsistent with the key principle of universality of international organizations.

138. That purely political initiative would severely injure the Agency's basic role as a technical organization, drawing it into matters which lay outside its mandate and competence.

139. The draft resolution was discriminatory and hypocritical. It would penalize South Africa for having failed to adopt measures which other Agency Member States also refused to accept (adherence to NPT or full-scope safeguards).

140. The draft resolution was unclear, ambiguous and imprecise. It failed to specify what measures South Africa must take in order to satisfy the sponsors. The reason for that was perhaps that certain States did not wish to list those measures which they themselves were not willing to take.

141. Adoption of the draft resolution would put an end to the negotiations on expanding Agency safeguards coverage in South Africa. That would go against the Board's policy and all countries' interests with regard to non-proliferation.

142. Adoption of such a text might incite South Africa to abrogate its existing safeguards agreements, thereby creating difficult political and legal problems for the Agency's Secretariat. He wondered whether the Board would really wish to take a measure which would further compromise the security of African States. Even if safeguards continued to be applied, the Agency and its Members would constantly be aware that, under those conditions, any day could be the last.

143. Adoption of the draft resolution would end co-operation on nuclear safety between the Agency and South Africa. That step could only imperil the majority population of South Africa, as well as the population of neighbouring countries and of the entire continent.

144. Adoption of the draft resolution would deprive the Agency and its Members of important information and of any access to South Africa's nuclear programme, thereby making it even more difficult to monitor that country's large and growing nuclear programme and, in particular, to obtain information on its uranium production and exports which was of great significance to all Member States.

145. Finally, increased isolation of South Africa in the nuclear field would only serve to encourage - rather than discourage - it in the pursuit of a national nuclear programme, free of any monitoring and control, which was designed to keep open the nuclear weapons option.

146. Under those conditions, he urged Board Members to consider carefully their position on the matter. A vote against the draft resolution was neither a vote in favour of apartheid, nor one in favour of the racist South African

régime. It was a vote in favour of retaining a measure of influence over the South African nuclear programme, from both a safeguards and a safety perspective. It was a vote for preserving the Agency as an organization concerned with the vital issues of nuclear technology, not politics. There were many organizations where political issues could be pursued, and he wondered whether Board Members could afford, on matters as important as non-proliferation and nuclear safety, to put forward political arguments in a way that might prejudice the best interests of peoples. If the Agency were to be drawn into political disputes, it might well end up with no more than a marginal role, as had happened to other United Nations bodies. The draft resolution was a bad one submitted by people of good will. His delegation agreed with the views of its authors and would continue to give them its most vigorous support, but it could not approve a draft resolution which ran counter to the desired objectives, and it urged Board Members to vote against it.

PROVISIONAL RECORD OF THE 677th MEETING (held on 12 June 1987)

SOUTH AFRICA'S NUCLEAR CAPABILITIES (GOV/2311, GC(XXX)/RES/468, GOV/INF/523)
(continued)

1. Mr. MESLOUB (Algeria) said that South Africa had regrettably failed to meet the conditions laid down in General Conference resolution GC(XXX)/RES/468. It was therefore the Board's duty to recommend the suspension of South Africa from the exercise of the privileges and rights of membership in the Agency. That would still leave time for efforts on the part of those who believed that South Africa could yet be persuaded to return to reason before the forthcoming session of the General Conference.
2. Thus, his delegation, along with many others who supported the draft resolution contained in document GOV/2311, hoped that it would be adopted by consensus.
3. Mr. GOMAA (Egypt) associated himself with the delegations of Nigeria, India and Algeria in supporting the draft resolution submitted by Algeria on behalf of the African Group in document GOV/2311.
4. Recalling the long history of attempts by the Agency to bring South Africa into line with its responsibilities as an Agency Member State, he observed that it was Pretoria's practice, each time the Board or General Conference was threatening serious measures against it, to hint at seemingly positive steps just in order to confuse the issue and to mislead. For that reason, he doubted whether any Board Member could genuinely believe that by September of the current year, or even within the next 10 years, South Africa would have complied with operative paragraph 12 of resolution GC(XXX)/RES/468 by joining NPT or agreeing to abide by the various General Conference resolutions calling for the submission of all its nuclear installations to Agency safeguards.
5. South Africa had chosen to stand outside the world community of civilized nations. It did not merit the sympathy and heated defence still offered by a number of States. Support and sympathy should rather go to those African States and peoples which daily suffered at the hands of South Africa

and faced the ever-looming threat of Pretoria's nuclear capabilities. To those who resorted to arguments about politicization or universality of membership, he would reply that revulsion at the practices of South Africa had led, and would continue to lead, many to feel a need to take appropriate action.

6. In conclusion, he appealed to all Board Members to adopt by consensus the draft resolution submitted by Algeria, since in the present situation that was the only way in which to live up to civilized ideals and to the principles of the United Nations Charter and the Agency's Statute.

7. Mr. AL-KITAL (Iraq) agreed with the Nigerian delegation's statement on behalf of the African Group. It was deplorable that General Conference resolution GC(XXX)/RES/468, like so many before it, remained unimplemented.

8. In that connection, he disagreed with some other speakers in believing that the Agency's role could now only be strengthened by barring the racist South African régime from the privileges and rights of membership. There was no longer any case for giving South Africa more time to consider, and Iraq therefore fully supported the draft resolution contained in document GOV/2311 and called upon the Board to accept it by consensus.

9. Finally, he said that, in his country's view, any State which continued to engage in nuclear co-operation with South Africa was acting in flagrant violation of international norms and of the Charter of the United Nations.

10. Mr. BAEYENS (France) recalled that operative paragraph 12 of GC(XXX)/RES/468 requested the Board to consider recommending certain measures against South Africa if by the time of the forthcoming General Conference that country had not fulfilled certain conditions. It would therefore be logical for the Board to reconsider the matter when preparing for the General Conference in September. That would enable the Director General to continue his contacts with South Africa aimed at finding a commonly acceptable solution for the placing of certain South African facilities under Agency safeguards. To that end, and before the adoption of any decision by the Board, it would be advisable for the Director General to obtain from the Agency's Legal Division advice on whether the draft resolution contained in document GOV/2311 was legally compatible with the time-limits specified in resolution GC(XXX)/RES/468.

11. Mr. LOOSCH (Federal Republic of Germany) saw no need to reiterate his country's long-standing position on the present matter, which had been further strengthened in the course of the recent summit meeting of seven major industrialized nations and the European Community in Venice.

12. The task now at hand was to determine how the draft resolution submitted by Algeria on behalf of the African Group fitted into the overall objectives of the Agency and, more specifically, into the mandate given to the Director General and the Board under resolution GC(XXX)/RES/468. In that regard, he shared the opinion expressed by some previous speakers, particularly those from the United Kingdom, the United States of America and France, that it would not further the Agency's statutory objectives to make any such recommendation, which indeed, by undercutting all attempts to monitor and control the nuclear situation as it evolved in South Africa, would run totally counter to the Agency's aims. The possible effects of such a move should be weighed carefully, for in September, on the eve of the General Conference, the Board might well be accused of undermining the objectives of resolution GC(XXX)/RES/468 by taking action at the present time under circumstances which were not exactly conducive to considered judgement. For that reason - while reserving the right to return to the matter - his country would appreciate legal and policy advice from the Director General regarding the nature of the relationship between the present draft resolution and the terms of reference of the Agency as a whole, and in particular those of the Board arising from General Conference resolution GC(XXX)/RES/468.

13. Mr. AL-TAHIR (Sudan) thanked the Director General for his continued efforts to reach agreement with the racist South African régime on the matter of safeguards. South Africa's constant refusal to comply with the Agency's Statute and its persistent striving to arm itself with nuclear weapons represented a major threat to Africa and the world. In the interests of putting an end to Pretoria's flouting of international law and of the principles of both the Agency and the United Nations, Sudan called for the implementation of operative paragraph 12 of resolution GC(XXX)/RES/468 and the adoption by consensus of the draft resolution contained in document GOV/2311.

14. Mr. KATTAN (Saudi Arabia) said that South Africa's continued violation of human rights, as well as its refusal to subject its nuclear activities to safeguards, had been the subject of many debates and resolutions in the United Nations and the Agency. In view of Pretoria's consistent failure to co-operate with the Director General on the matter of safeguards, it was now imperative that operative paragraph 12 of resolution GC(XXX)/RES/468 be implemented. To that end, Saudi Arabia would support the draft resolution contained in document GOV/2311, in the hope that it could be adopted by consensus.

15. Mr. CUEVAS CANCINO (Mexico) said that his delegation supported the draft resolution contained in document GOV/2311.

16. The behaviour of South Africa represented the most serious problem ever faced by the United Nations family as a whole. Originally a founder member, it had constantly violated the principles and purposes of the United Nations and had consistently failed to take notice of resolutions and appeals by the international community. The Agency, as part of the United Nations system, could not deny its own responsibility in the matter and should take steps in the spirit of Article IV.B of its Statute, which made membership of the Agency contingent upon a State's "ability and willingness to act in accordance with the purposes and principles of the Charter of the United Nations". There was thus a case to be made for expelling South Africa from the Agency, but unfortunately no provision for such action existed in the Statute.

17. Ideally, Mexico would have preferred a resolution based on relevant United Nations resolutions, particularly General Assembly resolution 40/64 A demanding the application of comprehensive and mandatory sanctions against South Africa and calling upon all organizations within the United Nations system that had not yet done so to exclude forthwith the South African régime from their membership. In the circumstances, however, applying Article XIX.B of the Statute would certainly not be illegal and represented the best form of sanction open to the Agency.

18. In response to the remarks made by some speakers to the effect that the draft resolution was short-sighted, he pointed out that negotiations with

South Africa in the past had always proved to be most difficult and that there were no signs of any change in South Africa's habit of delaying any progress towards fulfilling its obligations to humanity - on the contrary, it was becoming more reactionary than ever.

19. The draft resolution had been said to go against the spirit of the Agency, which was supposed to be technical and not political in nature. However, it was not clear where the boundary between those two extremes lay. Many examples could be given to show that the Agency's activities were far from purely technical. Indeed, he wondered whether there was anything more political in the modern world than the use of nuclear energy.

20. It had also been said that the draft resolution would be counterproductive and would violate the time-limits laid down in resolution GC(XXX)/RES/468. However, the Board was free to determine exactly when conditions were right for action. It was not valid to argue that nothing must be done until September so as to allow more time for possible progress, since even if South Africa chose to negotiate in the meantime, the draft resolution, if adopted, would be no obstacle to that. As to the suggestion that the Agency's Legal Division should give an opinion on the matter, he was not opposed to that but felt it to be unnecessary.

21. In conclusion, whenever South Africa was discussed in international organizations, there were always some delegations which insisted that patience should be exercised with that country, even though such patience had in the past invariably been counterproductive unless constantly backed up by suitably worded resolutions. For that reason, he urged that the draft resolution be adopted so as to maintain pressure on South Africa and to show that there were people within the Agency who cared about human rights and about the *raison d'être* of the United Nations.

22. Mr. SEMENOV (Union of Soviet Socialist Republics) said that his country supported the draft resolution before the Board for a number of very obvious reasons. For many years the South African authorities had persistently ignored resolutions by the Agency's General Conference demanding that South Africa submit all of its nuclear activities to Agency safeguards,

and they still effectively refused to act in accordance with the aims and principles of the Agency's Statute. At the present meeting, the Director General had again been unable to report any progress on the matter to the Board. The international community had repeatedly noted with great concern that South Africa's continued attempts to establish a nuclear potential represented a serious threat to peace and security, especially on the African continent. The policies of South Africa in that area ran counter to the general spirit of co-operation on the peaceful uses of nuclear energy, as promoted by the Agency in accordance with its Statute. All who were truly concerned with strengthening the non-proliferation regime and who really valued the aims and principles of the Agency's Statute should adopt measures of a kind likely to be more effective than the appeals already made to the authorities in Pretoria, and the proposals contained in document GOV/2311 were such measures.

23. Mr. PROENCA ROSA (Brazil) fully supported the draft resolution contained in document GOV/2311 for reasons which corresponded closely to those put forward by the Governor from Mexico. He wished to add only three further points. First, the proposed measure did not go against the universality of the Agency, since the suspension of privileges and rights did not mean that the country concerned would cease to be a member. Secondly, regarding safeguards, he recalled that his own Government was willing to submit all of its nuclear installations to safeguards, provided that it was done in a non-discriminatory manner and that all countries accepted the principle of general safeguards. Thirdly, his Government considered that the Agency, and the Board in particular, was definitely a political forum rather than a technical one. The Board consisted of Governors who represented governments, and a series of measures adopted recently had had, albeit within a technical context, strongly political connotations.

24. Mr. KELSO (Australia) expressed his country's deep dissatisfaction with South Africa's failure to accept Agency safeguards for its semi-commercial enrichment plant and urged South Africa and all other States to accept safeguards on all their nuclear facilities.

25. Australia had taken a vigorous and demonstrable stand against the odious policies of the racist apartheid régime of South Africa. However, it believed in the principle of universality of international organizations, which was fundamental to the operation of the entire United Nations system. Moreover, it had not been demonstrated to Australia's satisfaction that South Africa had persistently violated the provisions of the Statute, and only that could justify the action envisaged in the draft resolution. He therefore supported those who had called for a considered legal opinion. There were sound reasons why South Africa should not be suspended from the Agency, given that such a move would bring to a halt all efforts to bring that country's nuclear facilities under safeguards and thereby leave Africa and its peoples all the more exposed to danger.

26. That being so, it was a grave disappointment that it did not appear possible to adopt a consensus decision on the matter despite the wide measure of agreement on its substance.

27. Mr. SUCRE FIGARELLA (Venezuela) expressed himself in favour of adopting the draft resolution submitted by Algeria on behalf of the African Group. The Agency was a highly technical organization, and any decision to suspend one of its Members had to be thoroughly justified. South Africa had openly and deliberately failed to meet its basic obligations as a member of the Agency, and that was why the General Conference had adopted resolution GC(XXX)/RES/468. The Board was now being asked to approve a recommendation to the forthcoming regular session of the General Conference. In view of the continuing negative attitude of South Africa, there could be no course other than to approve the draft resolution under consideration - and there was evidently no point in postponing the decision to do so, since no one could believe that Pretoria would alter its attitude over the coming months.

28. The time had come to stop being patient with South Africa, which had no interest whatsoever in establishing any meaningful dialogue on the application of safeguards to its nuclear facilities, and which, through its policy of apartheid, continued to pose a most serious threat to civilized existence and to respect for international law. In that connection, Venezuela could not understand the attitude of those countries which insisted on pointing to legal

considerations, when what was happening in South Africa was blatantly evident to all and had nothing to do with the aims and objectives of the United Nations. Venezuela had in various forums condemned the behaviour of South Africa, with whose peoples it could only feel solidarity. It also demanded the immediate independence of Namibia, and was proud to belong to the United Nations Council set up to administer that country's affairs for as long as the present situation lasted.

29. In conclusion, his country believed in respect of the law and in peaceful co-existence. It would have preferred not to have to advocate a decision such as that now under consideration. In doing so, however, it was inspired both by the utmost respect for human values and by the knowledge that the non-proliferation regime would be considerably strengthened by the application of safeguards to South Africa's nuclear facilities.

30. Mr. GUYER (Argentina) supported the draft resolution now before the Board for reasons which had been very adequately explained by previous speakers from Latin America. South Africa still had time to change its attitude before September, and if it chose to do so it might not then be necessary for the General Conference to follow the Board's recommendation to suspend South Africa from the privileges and rights of membership - which in any case was not the same as expulsion.

31. Mr. HAVEL (Czechoslovakia) expressed deep concern at the fact that, despite all the efforts made by the Agency and its Director General, South Africa had not taken any steps to demonstrate its desire to comply with the various resolutions on South Africa's nuclear capabilities adopted at the previous and earlier sessions of the General Conference.

32. The establishment of a nuclear capability by the racist South African régime increased the risk of proliferation and represented an extremely serious threat to peace and security throughout the world, and particularly to the peoples of Africa. Czechoslovakia therefore joined those who recommended that the Board implement without delay the measures called for in resolution GC(XXX)/RES/468 and also supported the adoption of the draft resolution submitted by Algeria on behalf of the African Group.

33. Ms. HYDER (Pakistan) fully supported the draft resolution before the Board and associated herself with previous speakers who had spoken in its favour. South Africa had persistently acted against and openly defied the purposes and principles of the United Nations Charter and the Agency's Statute, and on past experience there was no reason to believe that, given more time, it would behave more responsibly. The South African régime had over the years become more repressive, intransigent and defiant. It had ignored with impunity all standards of civilized behaviour, flouted the recommendations of the General Assembly, and been impervious to the exhortations of the international community.

34. Mr. ZHOU (China) supported the draft resolution tabled by Algeria on behalf of the African Group. To date, the South African régime had refused to implement the relevant resolutions United Nations and of the Agency's General Conference. It had not only intensified its pursuit of the inhuman policy of apartheid, it had also perpetrated aggressive acts abroad which constituted a serious threat to peace in Africa and to world stability in general. The actions of the South African régime ran completely counter to the purposes and principles of the United Nations Charter, on which the work of the IAEA too was based.

35. Mr. GIGNAC (Canada) said that his country totally rejected the policy of apartheid, considered it to be abhorrent, and had never hesitated to say so in all international bodies, most recently at the Venice summit meeting. Furthermore, the Canadian Prime Minister had had an opportunity to explain his position on a recent visit to the front-line States. Canada worked in very close co-operation with African countries with the aim of bringing about change in South Africa, because it considered that apartheid was a threat to stability and peace in the region. However, problems did arise when efforts were made to have the Board do things that were more appropriately done elsewhere, and individual Board Members should ask themselves whether the resolution before them was capable of achieving its goals and whether by approving it they would not damage their own interests, as a Board of Governors, more than they would punish South Africa. The discussion at the Board's previous meeting on adjourning the question of

safeguards had virtually amounted to an attack on the raison d'être of the Agency. The Board's real duty was to continue to press countries like South Africa, and other Members who had not done so, to accede to NPT and put all their facilities under safeguards.

36. The resolution itself would do far more harm than good. First of all, it ran counter to the principle of universality in international organizations, to which Canada was fundamentally attached throughout the United Nations system, having always opposed any attempt to depart from that principle and to restrict the privileges and rights of members of the United Nations and all other specialized agencies, including the IAEA. There was really no choice but to continue to follow that policy, since failure to do so would compromise the very existence and efficiency of the Agency and in particular the non-proliferation of nuclear weapons and the safeguards system. Secondly, the language of preambular paragraph (c) and operative paragraph 3 was more like that used in the United Nations Security Council than that customary in the Agency's own Board of Governors, and great care should be taken in choosing such wordings. Furthermore, the Governor from France had raised a pertinent legal question and the Board would be well-advised to obtain a reply to it before taking further steps. For all of those reasons, therefore, it was with much regret that Canada could not join in any consensus on the draft resolution.

37. Mr. ZANGGER (Switzerland) said that his country remained faithful to the principle of universality, which it considered to be fundamental, and could not accept the reasons given in support of the draft resolution. It would therefore vote against it. It did not believe in the effectiveness of isolation measures, and, on the contrary, was firmly convinced that the search for dialogue and negotiation within the organization was the only way of achieving the Agency's purposes, particularly that of non-proliferation.

38. Mr. YBAÑEZ (Spain) said that his delegation viewed with great sorrow and much concern the postponement of decisions on items of the adopted agenda and the burgeoning of the present debate because, while fully endorsing the purposes of the resolution, it could only vote against it owing to the form in which it was presented. Like many other delegations, it considered

that the resolution would be counterproductive. It also regretted that no effort had been made either inside or outside the meeting to achieve a consensus, a custom of which the Board was otherwise extremely proud. Whether it had been impossible to obtain a consensus, or whether that usual course of action had been deliberately rejected, it was impossible to say, but Spain believed it had a duty to express its concern about the obligations of the Board and urged it to think very seriously about the effects which the proposed resolution would have on the Agency, as it might even persuade some States to think that the Board's action was not the result of a consensus achieved by the free exchange of opinions, but had been imposed by a majority or a minority, whether permanent or otherwise.

39. Mr. UMAR (Nigeria) welcomed the many condemnations of apartheid which had been made and commended the Director General for his continued efforts over the past six years and for providing the Board with copies of the correspondence between himself and the South African Mission in Vienna.

40. The Director General had rightly said that any visit by himself to South Africa would need to have a very clear objective in order to be understood by, and acceptable to, the Member States of the IAEA. It had not taken place because there was no such objective. South Africa had merely wished to use the Director General's visit for political propaganda purposes.

41. A comment had been made on the legality of the Board's action already at its present session on resolution GC(XXX)/RES/468. In his view, the argument advanced by the Governor from the United Kingdom was an unacceptable delaying tactic. If South Africa had been serious, it could have acted within one month of the adoption of that General Conference resolution, and the present draft resolution would not have been necessary. To invoke the famous principle of universality was also specious, since there had been no complaints about that principle, for example, during the many years when China had not been a member State. The Governor from the United States of America had said that the draft resolution was a bad one. He was entitled to his opinion, which - like that of the other Members who had not agreed with the African Group - was understood and respected by that Group, the more so because those Members had nevertheless condemned apartheid.

42. Ms. IBARRA DE GILLEN (Guatemala) supported the resolution submitted by Algeria on behalf of the African Group and fully endorsed the views of other Latin American speakers. For the time being, all possible forms of negotiation had been exhausted and the time had come to submit the resolution to the General Conference.

43. Mr. YATABE (Japan) said he shared the legitimate concerns of the sponsors of the draft resolution and sympathized with their intentions. However, for the reasons put forward by a number of previous speakers, Japan regretted that it could not join a consensus. It wished, however, to be associated with the request made by the Governor from France for a legal opinion.

44. Mr. KENNEDY (United States of America) asked that he, too, be associated with the request made by France, the Federal Republic of Germany, the United Kingdom, Australia and Japan for a legal opinion on the relationship between the draft resolution, General Assembly resolution GC(XXX)/RES/468 and Article XIX.B of the Statute.

45. The DIRECTOR GENERAL, replying to the requests for a legal opinion, said that he had sought legal advice and been told that the text of the General Conference resolution gave the impression that the General Conference wanted the Board to consider the suspension of South Africa from the rights and privileges of membership by the General Conference if at the time of the General Conference session in September 1987 South Africa had not complied with the relevant General Conference resolutions and other things required by the General Conference.

46. It was impossible to say at the present time, with any certainty, what South Africa would or would not do by the following September. He could only report on the contacts which he had had, and he had so reported.

47. On the premise of the General Conference resolution itself, it would be logical to adopt a recommendation during the Board's meetings in September. However, he could not see that the Statute precluded any State or group of States from submitting to the Board a recommendation on the basis of Article XIX.B at any time. If such a recommendation were to be accepted, the Board would, of course, be free to review it before the thirty-first regular

session of the General Conference and, if it deemed that events so justified, to change or even to revoke the recommendation, although that would require a two-thirds majority under Rule 33(a) of the Provisional Rules of Procedure.

48. Were such a recommendation from the Board to be placed before the General Conference, it would still remain for the General Conference to decide by a two-thirds majority whether it would act on the recommendation or whether, in the light of events occurring after the Board's action, it would prefer to adopt some other course.

49. Mr. MORPHET (United Kingdom) thanked the Director General for the clear piece of advice just given. He had thought it proper that it should be ascertained without any doubt whether any legal point was involved which required the Board to consider carefully before moving further, but the advice was that the Board was free to take the decisions it wished to take.

50. With regard to the question of competence, and of whether or not the Board was a policy-making body, the answer was that it was; it would not be reasonable to suppose that Board Members were not in the confidence of their governments and that they were not involved in policy questions. However, their responsibilities essentially related to nuclear questions. The IAEA was a specialized agency, and the draft recommendation invited the Board of a specialized agency to pass general political judgement on issues outside the scope of its responsibility. The precedent aspects were worrying and dangerous. How many other Members of the Agency, and perhaps of the Board, might be threatened with suspension or expulsion on general political grounds, or on the grounds that they had not done enough in the field of safeguards? Where, once a start had been made, should the line be drawn? The decision might be of dubious legality. In any case, the evidence that South Africa had persistently violated the Statute of the Agency was debatable.

51. The United Kingdom delegation agreed with what other Governors had said of the possible counterproductive nature of the proposed action and feared that it would inevitably set back the progress which had already been made in establishing a safeguards regime in South Africa. It would discourage South African co-operation with the Agency on nuclear safety issues, and thus perhaps affect the population of South Africa itself and of neighbouring States.

52. The United Kingdom Government was in favour of a continuation of dialogue between the IAEA Secretariat and South Africa. It was important that progress should be made on a safeguards agreement, and he had been pleased to hear a number of Governors say that they would, despite their doubts whether anything could be achieved by September, be glad to hear of any such progress if it were made. That was undoubtedly a correct position for all Governors. In addition, those who were in a position to do so should use their best endeavours to help any such agreement to be reached.

53. The United Kingdom authorities believed that it was right to continue along that path, rather than to take the counterproductive road of suspension or expulsion. It was not a delaying tactic but a point of proper concern. His delegation could not join in any consensus to vote in practice against the principle of universality, however repugnant the apartheid policies of Pretoria might be.

54. The CHAIRMAN invited the Board to proceed to take a decision on the draft resolution contained in document GOV/2311.

55. Mr. KENNEDY (United States of America), speaking on a point of order, said that the length of the debate on the issue so far, the extraordinary circumstances of its initiation, and the fact that all the customary procedures had been departed from, indicated that the matter was certainly a very important one. Moreover, as the Director General had already pointed out, if the matter came before the General Conference a two-thirds majority would be required to enact such a resolution. Since the Board was unable to proceed by consensus in the present case, it would seem desirable to apply Rule 37 of the Provisional Rules of Procedure and to decide that the matter was important enough to require a two-thirds majority. In view of the number and weight of the arguments presented on both sides of the issue, it was clear that no one considered the matter to be less than of extraordinary importance, as was also reflected by the waiving of many procedures and the fact that the matter had been brought forward dramatically on the agenda. For that reason, he considered that the Board should take appropriate action to ensure that a two-thirds majority would be required and he therefore moved that the Board decide that the matter was one important

enough to require a two-thirds majority, and that the vote to decide the question be taken by roll-call.

56. Mr. GOMAA (Egypt) said that the Provisional Rules of Procedure of the Board of Governors were clear. Rule 36 specified the questions on which decisions required a two-thirds majority, sub-paragraph (f) of Rule 36 covering decisions on other categories of questions as decided by the Board pursuant to Rule 37. Nowhere in Rule 36 or Rule 37 was there any reference to suspension of the privileges and rights of membership. Thus, there was no basis whatsoever in the Provisional Rules of Procedure for believing that a two-thirds majority was required. Moreover, it was reasonable to assume that the authors of the Provisional Rules of Procedure had they wished to do so, would have made it perfectly clear that the question at issue required a two-thirds majority as they had in the Rules of Procedure of the General Conference; that they had not done so was an answer in itself.

57. However, he wished to associate himself with the Governor from the United States of America in requesting a roll-call vote on the issue.

58. The CHAIRMAN said that a motion invoking Rule 37 had been made, to the effect that the decision on the draft resolution should be taken by a two-thirds majority. In addition, a request for a roll-call vote had been made, and supported. If the motion put forward by the United States was adopted, voting on the draft resolution contained in document GOV/2311 would be by a two-thirds majority. If the motion were rejected, voting would be by a simple majority.

59. Mr. MORPHET (United Kingdom), speaking on a point of order, said that it was quite clear from Rules 36(f) and 37 that the Board had a right to decide whether or not it wished to vote by a two-thirds majority on certain categories of questions. In the present case, the category of question on which the Board was being asked to decide was that category relating to the suspension of Member States from the rights and privileges of membership. If that category of questions did not deserve a two-thirds majority, there were very few matters which could.

60. The CHAIRMAN asked the Board to proceed to the roll-call vote, as requested by the Governor from the United States of America, on the question whether a decision on the draft resolution contained in document GOV/2311 should be taken by a two-third majority..

61. Ireland, having been drawn by lot by the Chairman, was called upon to vote first.

62. The result of the vote was as follows:

In favour: Ireland, Japan, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia, Canada, Chile, Finland, France, Federal Republic of Germany.

Against: Republic of Korea, Madagascar, Mongolia, Nigeria, Pakistan, Poland, Saudi Arabia, Sudan, Thailand, Union of Soviet Socialist Republics, Algeria, Bulgaria, China, Czechoslovakia, Egypt, India, Iraq.

Abstaining: Mexico, Venezuela, Argentina, Brazil, Guatemala.

63. There were 13 votes in favour and 17 against, with 5 abstentions. The motion was rejected.

64. The CHAIRMAN said that, in the light of that result, the Board would vote on the draft resolution contained in document GOV/2311, the decision to be made by a simple majority.

65. Mr. UMAR (Nigeria) requested, on behalf of the African Group, that the vote should be taken by roll-call.

66. Brazil, having been drawn by lot by the Chairman, was called upon to vote first.

67. The result of the vote was as follows:

In favour: Brazil, Bulgaria, China, Czechoslovakia, Egypt, Guatemala, India, Iraq, Republic of Korea, Mexico, Madagascar, Mongolia, Nigeria, Pakistan, Poland, Saudi Arabia, Sudan, Thailand, Union of Soviet Socialist Republics, Venezuela, Algeria, Argentina.

Against: Canada, Finland, France, Federal Republic of Germany, Ireland, Japan, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Australia.

Abstaining: Chile.

68. There were 22 votes in favour and 12 against, with 1 abstention. The draft resolution (GOV/2311) was adopted.

69. Mr. THANES (Thailand), explaining his vote, said that according to his interpretation of the Provisional Rules of Procedure of the Board of Governors, a decision to recommend suspension of a Member from the exercise of the privileges and rights of membership was not one that required a two-thirds majority. Secondly, although such suspension was an important matter, his country attached priority to the substance of the draft resolution contained in document GOV/2311. For those reasons, he had voted against the United States motion.

70. Mr. BRADY ROCHE (Chile) recalled that his country had always maintained that universality in the membership of international organizations was essential for solving common problems. It had consistently opposed the exclusion of any country from an organization for political reasons, and was unable to accept a procedure which was detrimental to the principle of universality. As suspension of the rights of a State was a matter of the utmost significance, Chile had supported the motion that the question be decided by a two-thirds majority. However, Chile had abstained in the vote on the draft resolution contained in document GOV/2311.

71. Mr. YATABE (Japan) said that his Government's position towards South Africa had been clearly stated on a number of occasions, including the recent Venice summit meeting, and remained unchanged. The South African Government's apartheid policies were contrary to the dignity of all human beings, inhumane and a violation of international law. His Government had therefore vigorously condemned those policies and had adopted restrictive measures and sanctions in an effort to bring about a change.

72. His delegation regretted that the safeguards negotiations between the Agency and the South African Government had so far not shown any significant progress, in spite of intensive efforts by the Director General. However, while fully sharing the disappointment and irritation of the countries sponsoring the draft resolution, his delegation felt it was politically unwise, legally inappropriate and technically ineffective to suspend South Africa from its membership, since that would virtually rule out any possibility of further progress in the negotiations between the Agency and South Africa on the safeguards agreement. His delegation considered that such a situation would run counter to the objectives of the Agency and the interests of all its Members, and had therefore voted against the draft resolution.

73. Mr. UMAR (Nigeria) thanked all the Governors who had voted in favour of the draft resolution. Since the present series of meetings was the last time he would be attending as a Member of the Board, he also thanked the Director General, the Secretariat and his colleagues for their help during his term of office as Nigeria's Resident Representative in Vienna.

74. Mr. MESLOUB (Algeria), speaking as Chairman of the African Group, thanked those delegations which had supported the Group's draft resolution. To those which had not, he wished to say that the Group deeply respected their position and trusted that they would make every effort to prevail upon South Africa to comply with the conditions imposed upon it, so that ultimately, if the General Conference endorsed the resolution, South Africa would nevertheless be able to maintain its privileges and rights.

75. Mr. KENNEDY (United States of America) said that the pattern of voting had made it clear to all that the resolution just adopted, while ostensibly concerned with "South Africa's nuclear capabilities", was a political resolution, passed for political reasons. The decision that suspension of membership was not important enough to require a two-thirds majority made that clear. The United States did not believe that there was any basis under the Agency's Statute for a recommendation by the Board of Governors to suspend South Africa's rights and privileges of membership in the Agency. The United States deplored South Africa's racial policy of apartheid

without reservation, but considered that there was no provision under the Agency's Statute for suspending a State's membership on grounds of its political system, however objectionable. He could only hope that a precedent had not been set thereby, since a great deal of the Board's time might be taken up with similar issues in the future. For example, there was no provision, either, in the Agency's Statute to suspend a Member for failure to accept full-scope safeguards - if there were, several Governors would not have been attending and voting at the present meeting.

76. His country was seriously concerned that the establishment of arbitrary criteria for membership, such as those just established, was an invitation for political issues to play an overriding role in the Board's deliberations and to disrupt the valuable technical work for which the Agency had been established. That would be a grave disservice to the Agency and to the interests of the Member States themselves.

77. He wished to make it absolutely clear that his delegation was not saying that the issue of South Africa was unimportant - and he regretted that others might have given that impression. Nor did it think that the world should stand aloof from the tragic situation in South Africa. Suitable signals should continue to be sent to the South African Government that apartheid and the suppression of the rights of the majority in South Africa were intolerable. But the Agency was not the appropriate forum for dealing with that issue, and the action just taken by the Board was improper, illegal under the Agency's Statute and, he believed, counterproductive to the shared interests in non-proliferation and nuclear safety - the very concerns that should be uppermost in the minds of the African States.

78. The "signal" that would be sent by suspending South Africa was far less significant than what the Agency stood to lose by excluding that country from participating in the Agency's safety programme and safeguards activities, both of which were of direct relevance to South Africans in general, not to mention all the States represented on the Board. Suspension of its membership would be a strong disincentive for South Africa to undertake any further non-proliferation obligations or, for instance, to report its uranium exports to the Agency in accordance with its agreement with the Agency.

79. For all those reasons, the United States strongly objected to the action just taken. For the sake of the Agency and its Members, and of world peace, his delegation would do all it could to defeat such a resolution at the General Conference in September.

80. Mr. LOOSCH (Federal Republic of Germany), speaking on behalf of the Member States of the European Community, recalled their longstanding abhorrence of the system of apartheid, which had been voiced on numerous occasions. The Member States of the European Community regretted that the present issue had been the subject of a resolution and had voted against it because it contravened the principle of universality of membership in the Agency. In their opinion, it was not up to the Agency to determine whether or not a State fulfilled its obligations under the United Nations Charter. Moreover, the resolution would hinder rather than promote the continuation and strengthening of Agency safeguards in South Africa, thus jeopardizing the Agency's safeguards system in general, and was detrimental to the aims of the Agency and its orderly functioning.

81. The Member States of the European Community reiterated their appeal to the Director General and the Government of South Africa to step up their efforts and intensify their current negotiations with a view to achieving a solution that would be universally satisfactory as soon as possible .

82. The CHAIRMAN took it that the Board wished, in pursuance of General Conference resolution GC(XXX)/RES/468, to transmit the resolution just adopted to the General Conference, together with the relevant summary records and the Director General's information paper contained in document GOV/INF/523.

83. It was so decided.