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Application of IAEA Safeguards in the Middle East

Report by the Director General

A. Introduction

1. General Conference resolution GC(60)/RES/15, in operative paragraph 4, affirmed “the urgent need for all States in the Middle East to forthwith accept the application of full-scope Agency safeguards to all their nuclear activities as an important confidence-building measure among all States in the region and as a step in enhancing peace and security in the context of the establishment of an NWFZ”.

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

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

Operative paragraph 10 of GC(60)/RES/15 reiterated the Director General’s mandate from earlier resolutions of the General Conference “to pursue further consultations with the States of the Middle East to facilitate the early application of full-scope Agency safeguards to all nuclear activities in the region as relevant to the preparation of model agreements, as a necessary step towards the establishment of an NWFZ in the region, referred to in resolution GC(XXXVII)/RES/627”.

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

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

Resolution GC(60)/RES/15, in operative paragraph 13, requested “the Director General to submit to the Board of Governors and to the General Conference at its sixty-first (2017) regular session a report on the implementation of this resolution”.

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

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

2. This report, as requested by the General Conference, describes the steps undertaken by the Director General in his efforts to further the implementation of his mandates conferred by the General Conference in resolution GC(60)/RES/15 and in decision GC(44)/DEC/12.

B. Application of Full-Scope Agency Safeguards

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

4. All States of the Middle East region¹ except for Israel are parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and have undertaken to accept comprehensive Agency safeguards. One of these States — Somalia — has yet to take action to conclude a comprehensive safeguards agreement with the Agency pursuant to that Treaty. Following its accession to the NPT in February 2015 as a State Party² to the Treaty, Palestine has initiated the process to conclude a comprehensive safeguards agreement with the Agency in connection with Article III of the NPT. Additional protocols are in force for Bahrain, the Comoros, Djibouti, Iraq, Jordan, Kuwait, Libya, Mauritania, Morocco and the United Arab Emirates. The Islamic Republic of Iran (Iran) and Tunisia have signed additional protocols. The Additional Protocol for Iran is being applied provisionally since 16 January 2016 pending its entry into force. Tunisia has not yet brought into force its additional protocol. An additional protocol has been approved for Algeria but not yet signed.

¹ Members of the League of Arab States, the Islamic Republic of Iran and Israel.

² The designation employed does not imply the expression of any opinion whatsoever on the part of the Agency or its Member States concerning the legal status of any country or territory or of its authorities, or concerning the delimitation of its frontiers. The number of States Parties to the NPT is based on the number of instruments of ratification, accession or succession that have been deposited.

5. The discussions with representatives of the States of the Middle East region have shown that there continues to be a long-standing and fundamental difference of views between Israel, on the one hand, and the other States of the Middle East region, on the other hand, with regard to the application of comprehensive Agency safeguards to all nuclear activities in the region. All States in the region except for Israel emphasize that they are parties to the NPT and maintain that there is no automatic sequence that links the application of comprehensive safeguards to all activities in the Middle East, or the establishment of a nuclear-weapon-free zone (NWFZ), to the prior conclusion of a peace settlement, and that the former would contribute to the latter.³ Israel takes the view that Agency safeguards, as well as all other regional security issues, cannot be addressed in isolation from the creation of stable regional security conditions and that these issues should be addressed in the framework of a regional security and arms control dialogue that could be resumed in the context of a multilateral peace process.⁴ Thus, the Director General has not been able to make further progress in fulfilling his mandate pursuant to resolution GC(60)/RES/15 regarding the application of comprehensive Agency safeguards covering all nuclear activities in the region of the Middle East. The Director General will continue with his consultations in accordance with his mandate regarding the early application of comprehensive Agency safeguards on all nuclear activities in the Middle East region.

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

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

7. The 2010 NPT Review Conference reaffirmed the importance of the resolution on the Middle East adopted by the 1995 NPT Review and Extension Conference and recalled the affirmation of its goals and objectives by the 2000 NPT Review Conference.⁶ The Conference stressed that the resolution remained valid until the goals and objectives were achieved, and reiterated that the resolution, which was co-sponsored by the depositary States of the NPT (the Russian Federation, the United Kingdom and the United States of America), was an essential element of the outcome of the

³ The views of several States of the region (Egypt, the United Arab Emirates, Iran, Iraq and the Syrian Arab Republic) have been elaborated further, inter alia, in their statements at the meeting of the Board of Governors on 22 September 2016 (GOV/OR.1448), and at the 60th regular session of the General Conference, 26–30 September 2016: GC(60)/OR.1 (Iran), GC(60)/OR.2 (Saudi Arabia, Tunisia and Sudan), GC(60)/OR.3 (Egypt and Bahrain), GC(60)/OR.4 (Morocco and Lebanon), GC(60)/OR.5 (Algeria, the Syrian Arab Republic and Jordan), GC(60)/OR.6 (Kuwait, Qatar, Oman, Libya and Iraq), and GC(60)/OR.8 (Egypt and Iran).

⁴ Israel's position has been elaborated further in documents GOV/2004/61/Add.1-GC(48)/18/Add.1, GOV/OR.1448 and GC(60)/OR.6 and 8.

⁵ The most recent is United Nations General Assembly resolution A/RES/71/29, "Establishment of a nuclear-weapon-free zone in the region of the Middle East", adopted without a vote on 5 December 2016. The text of the resolution is available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/29.

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

1995 NPT Review and Extension Conference and of the basis on which the Treaty was indefinitely extended without a vote in 1995.

8. The 2010 NPT Review Conference emphasized the importance of a process leading to full implementation of the 1995 Resolution on the Middle East. To that end, the Conference endorsed the practical step that “[t]he Secretary-General of the United Nations and the co-sponsors of the 1995 Resolution, in consultation with the States of the region, will convene a conference in 2012, to be attended by all States of the Middle East, on the establishment of a Middle East zone free of nuclear weapons and all other weapons of mass destruction, on the basis of arrangements freely arrived at by the States of the region, and with the full support and engagement of the nuclear-weapon States” and that “[t]he 2012 Conference shall take as its terms of reference the 1995 Resolution”.⁷

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

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

11. At the 2015 NPT Review Conference, the parties reviewed the operation of the Treaty, taking into account the decisions and the resolution adopted by the 1995 Review and Extension Conference, the Final Document of the 2000 Review Conference and the conclusions and recommendations for follow-on actions of the 2010 Review Conference. Despite intensive consultations, the Conference was not able to reach agreement on the substantive part of the draft Final Document.¹⁰

12. At the first session of the Preparatory Committee for the 2020 NPT Review Conference, held in Vienna from 2 to 12 May 2017, “States parties reaffirmed their support for the resolution on the Middle East adopted by the 1995 Review and Extension Conference and recalled the affirmation of its goals and objectives by the 2000 and 2010 Review Conferences.”¹¹

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

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

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

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

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

¹⁰ NPT/CONF.2015/50 (Part I), paragraph 29.

¹¹ First session of the Preparatory Committee for the 2020 NPT Review Conference, *Chair’s factual summary (working paper)*, NPT/CONF.2020/PC.1/WP.40 (25 May 2017), paragraph 97.

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

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

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

17. Nuclear-weapon-free zones have already been established in Latin America and the Caribbean, the South Pacific, Southeast Asia, Africa and Central Asia,¹² respectively, through the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco), the South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga), the Treaty on the Southeast Asia Nuclear Weapon-Free Zone (Bangkok Treaty), the African Nuclear-Weapon-Free Zone Treaty (Pelindaba Treaty) and the Treaty on a Nuclear-Weapon-Free Zone in Central Asia, as noted in the Director General's previous reports, most recently in document GOV/2016/40/Rev.1-GC(60)/14/Rev.1. These established NWFZs are of particular relevance to the examination of the material obligations to be included in the verification regime to be implemented in a future Middle East NWFZ. While the existing NWFZ treaties contain certain variations and additional rights and obligations that, *inter alia*, take into account the specific characteristics of each of the respective regions, all five NWFZ treaties: cover large inhabited areas and are all designed to ensure the total absence of nuclear weapons from the territories of the States party to them; provide for Agency verification of the non-diversion of nuclear material¹³ and for the establishment of regional mechanisms to deal with compliance problems; and contain a protocol providing for the nuclear-weapon States to commit themselves not to use or threaten to use nuclear weapons against any non-nuclear-weapon State party to the NWFZ treaty in question.

18. In previous years, as mandated by decision GC(44)/DEC/12 of the General Conference, the Secretariat sought the views of Member States of the Middle East region with regard to developing an agenda and modalities for convening a forum in which participants from the Middle East and other

¹² Nuclear-weapon-free zones have also been established in certain uninhabited areas — Antarctica (Antarctic Treaty), outer space (Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies) and the seabed (Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil Thereof).

¹³ The Treaty on a Nuclear-Weapon-Free Zone in Central Asia, under Article 8, also requires States Parties to conclude with the Agency and bring into force, an additional protocol to their comprehensive safeguards agreements within 18 months after the Treaty's entry into force.

interested parties could learn from the experience of other regions, including in the area of confidence-building, relevant to the establishment of an NWFZ in the Middle East region. In this regard, the Agency circulated a proposed agenda in 2004 (Annex to document GC(48)/18) and continued to seek the views of the concerned States, as reported in previous reports by the Director General on *Application of IAEA Safeguards in the Middle East*.

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

20. As mandated by decision GC(44)/DEC/12, the Director General made "arrangements to convene a forum in which participants from the Middle East and other interested parties could learn from the experience of other regions, including in the area of confidence building relevant to the establishment of a nuclear weapon free zone". The Agency's Forum on Experience of Possible Relevance to the Creation of a Nuclear-Weapon-Free Zone in the Middle East took place from 21 to 22 November 2011 at Agency Headquarters in Vienna, Austria.¹⁴

21. In accordance with the agreed agenda,¹⁵ the Forum, reflecting the consensus of the Agency's Member States on the importance of establishing an NWFZ in the region of the Middle East, was designed to consider the experience of Africa, Asia, Europe, and Latin America and the Caribbean in creating regional security regimes and achieving disarmament through establishing NWFZs. The principal focus of the Forum was to: (i) study the lessons of other regions regarding the regional setting and context that had prevailed there before they began considering an NWFZ; (ii) review the existing multilaterally agreed principles for establishing NWFZs in populated areas of the world; (iii) review the theory and practice of establishing the five existing NWFZs; (iv) discuss with representatives from the five existing NWFZs their experience in promoting, negotiating and practically implementing negotiated arrangements for NWFZs; and (v) discuss the region of the Middle East in this context. The potential relevance of such experience to the case and region of the Middle East was addressed as well.

¹⁴ Further information on the Forum is available in document GOV/2012/38-GC(56)/17, paragraphs 25–37.

¹⁵ Document GOV/2012/38-GC(56)/17, Annex 1.