



AUSTRALIA



AUSTRALIAN MISSION TO THE UNITED NATIONS

E-mail australia@un.int

150 East 42nd Street, New York NY 10017-5612 Ph 212 - 351 6600 Fax 212 - 351 6610 www.AustraliaUN.org

UNITED NATIONS THIRD PREPARATORY COMMITTEE FOR THE 2005 NPT REVIEW CONFERENCE

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CLUSTER II ISSUES

**Statement by
Mr David Mason
Deputy Head of Mission
Australian Permanent Mission to the UN, Vienna**

(Check against delivery)

Mr Chairman, I would like to comment briefly on some key cluster II issues.

Despite recent challenges the vast majority of NPT parties have an excellent record of compliance with their NPT safeguards obligations. But the revelations of previously undeclared nuclear programs in Libya and Iran show clearly that comprehensive IAEA safeguards are insufficient to prevent proliferant states covertly acquiring sensitive nuclear materials and technology. There should be no question of the urgency of universal application of the IAEA's strengthened safeguards system.

Safeguards obligations are not static and the Agency's safeguards system has undergone considerable evolution since the NPT entered into force more than three decades ago. The strengthened safeguards system is the latest manifestation of this evolution. Australia and many others are of the firm view that the "Agency's safeguards system" which non-nuclear weapon state NPT Parties are obliged to accept comprises the Additional Protocol together with a comprehensive safeguards agreement.

Progress toward the universalisation of strengthened safeguards has been steady, with 36 APs approved by the IAEA Board of Governors and 39 having entered into force. But more to the point, of the NPT non-nuclear weapon states with significant nuclear activities the proportion with an AP signed or ratified is 78 percent (49 out of 63) and these states have well over 90 percent of all nuclear facilities under comprehensive safeguards. States with significant nuclear activity still outside the AP are clearly out of step with the overwhelming majority. The PrepCom should affirm that the AP together with a comprehensive safeguards agreement represents the current verification standard pursuant to Article III.1 and recommend that the 2005 Review Conference take a decision that the AP is mandatory under Article III of the Treaty.

Australia welcomes the IAEA's efforts to integrate the classical and strengthened safeguards systems. Wide application of integrated safeguards will deliver dividends both to safeguards effectiveness and efficiency enabling realisation of the full benefits of the strengthened safeguards system.

It is of deep concern that 44 NPT parties are yet to fulfil the basic obligation of concluding a comprehensive safeguards agreement. The PrepCom should register the unacceptability of this situation and urge NPT parties yet to conclude comprehensive safeguards agreements to do so without further delay. We note that conclusion of safeguards agreements by NPT states without significant nuclear activities involves simplified procedures and a minimal administrative burden.

Exposure of the Khan proliferation network illustrated starkly the critical importance of effective national controls over production and export of sensitive technology, materials and know how, and of international coordination in the application of national laws. Nuclear export controls play a central role in preventing the misuse of nuclear material, equipment and technology at the state, sub-state and individual level. They are a legitimate, necessary and desirable means for States to implement their obligation under Article III.2 of the Treaty to control nuclear exports. Export controls emphatically do not impede legitimate nuclear trade and cooperation. Rather they foster the necessary environment of long term assurance and stability necessary for peaceful nuclear cooperation.

The Nuclear Suppliers Group and the Zangger Committee have developed harmonised nuclear export controls to provide a regulated framework to facilitate safe nuclear trade and cooperation while minimising the risk of nuclear weapons proliferation. All NPT parties should ensure their controls on relevant items and technology are of a standard at least equivalent to the major nuclear export control regimes, and are strictly enforced. Nuclear suppliers should ensure they engage in nuclear transfers only where the recipient state has in place an adequate national system of nuclear security comprising NPT-related IAEA safeguards, physical protection, measures to combat illicit trafficking, and rules and regulations for appropriate export controls in case of retransfers. We welcome adoption of the UN Security Council non-proliferation resolution which among other steps will require states to enact effective export controls.

Australia has long-recognised that transparency is an essential part of the nuclear export controls regime. We note that both the Nuclear Suppliers Group and the Zangger Committee continue to work with determination to ensure transparency about their operations.

Australia reaffirms that significant nuclear supply to non-nuclear weapon states should be based on their acceptance of fullscope IAEA safeguards and we urge those suppliers that have not yet adopted the fullscope standard to do so without delay. But supply arrangements should also take into account the changes in the Agency's safeguards system – notably the strengthened safeguards system. The PrepCom should recommend that the 2005 Review Conference confirm that an INFCIRC/153 safeguards agreement together with an Additional Protocol should be a condition for new supply arrangements to non-nuclear weapon states in line with paragraph 12 of the NPTREC Principles and Objectives.

Countries which violate their NPT obligations by their own actions cut themselves off from the benefits of peaceful nuclear cooperation. NPT parties should refrain from nuclear cooperation with any state called on by the IAEA Board of Governors to rectify

violations of its safeguards obligations until the Board determines the state is back in full compliance.

The risk remains others will follow North Korea's action in acquiring nuclear technology then announcing NPT withdrawal. NPT parties may wish to consider at the 2005 Review Conference adoption of common understandings to apply in the event another NPT party should seek to withdraw. These could be based around affirming existing treaty law. NPT parties could confirm that nuclear materials, equipment and technology supplied to a state on the basis that they would be used for peaceful purposes would remain subject to peaceful use obligations even if a state withdraws from the NPT. NPT parties might also wish to consider whether notification of NPT withdrawal should trigger automatic consideration by the UN Security Council as proposed recently by the IAEA Director General.

Mr Chairman, physical protection of nuclear material and nuclear facilities is a key element of national systems of nuclear security. We call on all states yet to do so to accede to the Convention on the Physical Protection of Nuclear Material (CPPNM) and to apply, as appropriate, the physical protection recommendations in IAEA document INFCIRC/225/Rev.4 (Corrected) and in other relevant international instruments. Australia has been an active contributor to work in Vienna on strengthening the CPPNM and urges all member states to progress final negotiations and support a Diplomatic Conference by the end of 2004 so that a well-defined amendment to the Convention may be brought into force at the earliest opportunity.

Finally, we welcome the progress made on disposal of excess weapons fissile material in ways that make it no longer useable for nuclear weapons. The PrepCom should strongly support excess military fissile material being placed under IAEA safeguards as soon as practicable, thereby irreversibly removing it from weapons use.