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Statement
to the
Third Meeting of the Preparatory Committee
for the 2005 NPT Review Conference

Cluster II

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by

Mrs. Christine Göstl

Austrian Delegation

Mr. Chairman,

As this is the first time that my delegation takes the floor, let me say how pleased we are to see you chairing this third session of the Preparatory Committee for the 2005 NPT Review Conference.

As Ireland has outlined the thrust of the European Union's policy on Cluster II, I shall, in line with Austria's policy on nuclear security, limit myself to those items to which Austria traditionally attaches particular importance, i.e. in the areas of safeguards, physical protection and export controls.

(Safeguards)

In the field of safeguards last year's developments have clearly demonstrated the necessity of the universal application of comprehensive safeguards in their latest development, i.e. including the strengthening measures of the Additional Protocol (AP). The AP, together with a comprehensive safeguards agreement, form the current standard of the NPT related IAEA safeguards system.

In this context, we wish to reiterate the Austrian position based on our legal resolve that Art. III.1 of the Treaty contains the obligation for all NNWS parties to the NPT to enter into negotiations with the IAEA on an AP with the aim of putting into force such an instrument without undue delay. Art. III.1 requires each NNWS to accept safeguards based on the safeguards system developed by the IAEA for NPT purposes. The first model safeguards agreement was elaborated after the entry-into-force of the NPT in 1970 and published in 1971. This so-called "comprehensive safeguards agreement" was for a long time the standard for meeting the needs of the NPT.

In the early 90s, however, we were harshly confronted with the fact that the system was deficient. Therefore the IAEA elaborated additional requirements to bring the NPT safeguards system to the standard we then considered necessary to meet our concerns and avoid negative surprises like the ones in 1991 after the Gulf War. One of the results of this strengthening exercise was the adoption of the Model AP by the IAEA Board of Governors in 1997, an instrument that was needed to give the Agency the authority required to implement the additional verification measures.

We have thus difficulties in understanding the reluctance of some delegations for full recognition of the AP as a necessary requirement. Let me stress that all of us have endorsed the AP in all relevant fora, the IAEA Board of Governors as well as the NPT Review Conference. We all have agreed that we need the AP to be universally applied, if the IAEA were to be able to fulfill its mission and detect undeclared nuclear activities. We should thus not step back from what has already been agreed. The 2000 NPT Review Conference has left no doubt that there is only one safeguards system for NPT purposes, which has been established in line with Art. III.1 of the Treaty and which has to be improved whenever there is a need to do so.

The 2000 NPT Review Conference in this regard re-stated paragraph 11 of the 1995 Decision 2, that the IAEA safeguards system is a dynamic, living system that should be regularly assessed and evaluated. Decisions adopted by the IAEA Board of Governors aimed at further strengthening the effectiveness of Agency safeguards

should be supported and implemented and the Agency's capability to detect undeclared nuclear activities should be increased. The Conference endorsed the strengthening measures contained in the Model AP as the achievement of such a review. It called on the NPT parties to support and implement these measures, stating that the original framework of comprehensive safeguards had provided only a "limited level of assurance", and that the measures in the AP were necessary to complement the safeguards capability of the IAEA.

From Art. III.1 derives the responsibility of States parties to do the necessary to enable the Agency to implement this safeguards system in its current state of the art.

Recent revelations about nuclear supply routes have shown that a chain is only as strong as its weakest link. The IAEA safeguards system is depending upon its countries like a chain needs its links. Import as well as export reporting are important components of the AP in this context. This is why all countries, including those without significant nuclear activities, need to be part of this global system. Hence, my delegation reiterates its call on all states which still hesitate to accept an AP, to enter into negotiations with the IAEA and conclude their AP without delay.

(Physical Protection)

At the IAEA General Conference in September 2003, the Austrian Foreign Minister, Mrs. Benita Ferrero-Waldner, announced that Austria together with other States parties will submit to the depositary of the Convention on the Physical Protection of Nuclear Material (CPPNM) an amendment proposal in order to launch the necessary process for the strengthening of the Convention. My delegation is pleased to inform you that an amendment proposal based on the outcome of the deliberations of the Open-Ended Group of Legal and Technical Experts convened by the Director General of the IAEA will be forwarded on behalf of the Government of Austria and some 25 – 30 States Parties to the Director General in the next days. The depositary will circulate this amendment proposal to all States Parties, asking them about their support for holding a Diplomatic Conference to consider this amendment proposal. We call on all those of you who are parties to this Convention to respond positively and as soon as possible to this request so that preparations for an early Diplomatic Conference can be started. The events of 11 September 2001 have demonstrated the urgent need for strengthened international nuclear security standards. We sincerely hope that the Diplomatic Conference for the revision of the Convention will be convened soon, and that it will be crowned with success.

(Export Controls)

Export controls play an important role in nuclear non-proliferation. Nuclear co-operation involving the transfer of nuclear goods or technology can only take place if and when the exporting state is convinced that the conditions in the recipient country provide sufficient assurance that the nuclear items supplied would not be diverted from peaceful uses to non-peaceful purposes.

The obligations stemming from the export control provisions of Art. III.2 are the responsibility of each individual State party. Therefore it is necessary for each State party to have an appropriate set of national rules and regulations for export controls

in place in order to meet its responsibility. This was particularly pointed out by NPT Conference 2000 in its Final Declaration.

At the same time we have to recognise the fact that countries not regularly involved in nuclear transfers may not always have the practical experience to build-up on their own the required legislation. We therefore believe that it is within the responsibility of States that have experience to assist other parties in meeting their legislative needs.

Nuclear export controls have been a source of misperceptions since the entry-into-force of the NPT in 1970. This atmosphere delayed agreement on the proper implementation of NPT export controls for many years. A decisive break-through was finally achieved in the 1995 Review and Extension Conference, when the Member States, the sovereign of the Treaty, clarified in decision 2, paragraph 12 that the safeguards condition for supplies of sensitive nuclear items should be „full-scope safeguards“. In 2000, the Austrian delegation noted with satisfaction that the Review Conference reaffirmed this standard for NPT export controls.

Now the time has come to go a step further and take account of the fact that the AP, approved seven years ago by the IAEA Board of Governors and signed already by a considerable number of States parties to the NPT, constitutes the verification standard that should be required from all countries that want to participate in the exchange of nuclear goods and technology. As Art. III.2, with regard to supply conditions, refers to the safeguards required by Art. III.1, the arguments for the mandatory nature of the AP as presented earlier in this statement apply in the same way to export controls.

(Zangger Committee)

We note with appreciation the work of the Zangger Committee, well known as an informal, technical group of countries regularly involved in nuclear trade, which deals as a facilitator with the interpretation of the export control provisions of Art. III.2 of the NPT. This interpretation, as published in the IAEA series INFCIRC 209 and amended from time to time, has gained wide acceptance over the years. The work of the Zangger Committee was well recognised and welcomed in almost all NPT Review Conferences, and States parties were urged to base their export control policies on the Committee's interpretations of Art. III.2.

As NPT Conferences have repeatedly emphasised the importance of co-operation and assistance in setting up national rules and regulations, my delegation is pleased to note that the Zangger Committee has launched a programme for „outreach activities“ with interested countries that in the past sometimes considered themselves in a pointed form as „victims“ of export controls. This outreach program is aimed at creating an on-going dialogue of equal partners based on the understanding of a common responsibility.

My delegation hopes that this important work of the Zangger Committee will again be recognized and confirmed by the Conference in 2005.

As previous Conferences have requested the Committee to review its Understandings from time to time in order to bring them in line with technological and other developments, Austria takes note with appreciation of the respective work in

the Committee. We hope that, as a result of this effort, an adapted set of the Understandings of the Zangger Committee will be presented in the Committee's report to the 2005 NPT Conference. These revised Understandings should take account of recommendations already given by the NPT sovereign in past review conferences, but they should also contain draft language where the Committee will seek guidance from the NPT Conference next year. E. g., as the Additional Protocol has now become an integral part of the safeguards system, we need a clarification that this new standard has to be applied in export controls.

Another question is how the Committee's Understandings should deal with physical protection in export controls.

(State systems for nuclear security)

Article III.2 of the NPT requires States parties to supply nuclear goods only if there is a sufficient level of security in place in the recipient country that will prevent any diversion from peaceful uses to non-peaceful purposes. Physical protection plays an important role in meeting these security levels.

In the 1960s, where the Treaty originates from, the triggering conditions were described with the term „safeguards“. Safeguards by the IAEA, the accountancy and control of nuclear material, were considered originally to be sufficient and comprehensive enough to meet the needs for proper security in the recipient country. But definitely what the drafters of the NPT had in mind was that, whenever a nuclear item would be supplied to another country, it should not lead to any diversion towards the development of a nuclear weapon.

This security objective comprises all areas of nuclear security that have been found necessary and therefore have been developed until today. This means that in export controls, „safeguards“ as a term of the 1960s today should read as „an appropriate and adequate system of nuclear security“ in the recipient state, i.e. a system that comprises:

- IAEA „full scope safeguards“,
- a minimum level of physical protection, including
- minimum measures to combat illicit trafficking and
- appropriate export controls for transfer of nuclear items out of the country.

The Austrian delegation expects that the NPT Conference 2005 will give guidance in this regard and will confirm that physical protection as a condition of supply should be looked at before exports are approved. The IAEA recommendations as contained in INFCIRC 225 could be the reference for the levels of physical protection. We hope that, with the development in the revision of the Physical Protection Convention, this Convention should become the norm for NPT export controls.

Mr. Chairman,

These are only some of the issues the Preparatory Committee for the 2005 NPT Conference will have to address. I wish to assure you that Austria will continue to contribute actively to a successful resolution of these issues.