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Strengthening the International Atomic Energy Agency safeguards

Working paper submitted by Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iraq, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands (Kingdom of the), New Zealand, Norway, Poland, Portugal, the Republic of Korea, the Republic of Moldova, Mongolia, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Türkiye, Ukraine, the United Arab Emirates, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the European Union

Importance of International Atomic Energy Agency safeguards

1. As nuclear proliferation risks and cases of non-compliance present a major challenge in the implementation of the Treaty on the Non-Proliferation of Nuclear Weapons, preventing proliferation must be a paramount priority for all Non-Proliferation Treaty States Parties. The Non-Proliferation Treaty establishes a safeguards system under the responsibility of the International Atomic Energy Agency (IAEA) and in doing so, lays the necessary basis for preventing the spread of nuclear weapons and for the secure, responsible development of nuclear technology for peaceful purposes. The IAEA safeguards system is a fundamental component of the nuclear non-proliferation regime, and the Agency plays an indispensable role in the implementation of the Non-Proliferation Treaty. The continued full independence, impartiality and technical credibility of IAEA is vital for the international safeguards system.

2. IAEA has a clear and long-established mandate to verify that States comply with their safeguards obligations under the Non-Proliferation Treaty and to engage with Non-Proliferation Treaty States Parties on safeguards implementation. In this respect, the Agency exercises its authority in the implementation of safeguards agreements in accordance with its Statute, drawing independent and objective conclusions on the basis of a technical evaluation of all available safeguards relevant information which



is rigorously reviewed and validated. Ensuring that the Agency has all the political, technical, human and financial support from IAEA member States to meet its safeguards responsibilities is of paramount importance.

3. The main aim of the IAEA verification regime is the timely detection of diversion of nuclear material from peaceful activities, and deterrence of such diversion through risk of early detection, “for the exclusive purpose of verification of the fulfilment of [non-nuclear-weapon States Parties] obligations assumed under [the Non-Proliferation Treaty] with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices” (article III.1 of the Non-Proliferation Treaty). The verification regime also reinforces mutual trust and transparency, thus allowing all Non-Proliferation Treaty States Parties, under secure conditions and with mutual confidence, to exercise their inalienable right to develop research, production and use of nuclear energy for peaceful purposes, in conformity with articles I and II of the Non-Proliferation Treaty. This underscores the importance of strict observance of article III in order to ensure compliance with articles I and II and the overarching non-proliferation objectives of the Treaty.

4. IAEA safeguards play a central role in verifying that States comply with their non-proliferation obligations. Safeguards also enable and facilitate legitimate nuclear trade and the development of nuclear technology by giving assurances to exporters that their nuclear materials and technologies will not be misused. It is therefore essential to the sustained development of nuclear technology for peaceful purposes that the IAEA safeguards system remains effective and efficient.

5. Exercising the right to the benefits of nuclear technology must be available to all States pursuing in good faith a nuclear programme for peaceful purposes in accordance with their international obligations.

Strengthening the effectiveness of the safeguards system: the necessity of the Additional Protocol

6. Effective and efficient safeguards are of vital importance for facilitating peaceful nuclear cooperation and in the wider context of international security and sustainable development. Strengthening of the IAEA safeguards system and supporting the Agency’s efforts must be a paramount priority for all Non-Proliferation Treaty States Parties and IAEA member States to ensure that the system remains fully effective, credible and strong.

7. Pursuant to paragraph 1 of a Comprehensive Safeguards Agreement, a State undertakes to accept IAEA safeguards on “all source or special fissionable material in all peaceful nuclear activities within [its] territory, under its jurisdiction or carried out under its control anywhere”, in line with article III.1 of the Non-Proliferation Treaty. However, the Comprehensive Safeguards Agreement provides effective tools for the Agency to apply safeguards to declared nuclear material within a State, especially through the definition of a framework for conducting routine inspections at declared facilities.

8. IAEA is mandated to verify that States’ declarations are correct and complete to confirm that all nuclear material in those States is used solely for peaceful activities. The Additional Protocol provides additional legal authority and information to strengthen the Agency’s capacity to detect undeclared activities. Under an Additional Protocol, States are required to provide additional information about their nuclear fuel cycle, which offers a broader perspective and helps the Agency to better identify potential proliferation scenarios. Articles 4 to 10 of the model Additional Protocol provide the basis for the Agency to conduct complementary access at locations which have not been declared by the State. The combination of a Comprehensive Safeguards

Agreement with an Additional Protocol is critical to enabling the Agency to effectively detect undeclared nuclear material, facilities and activities in a State.

9. Only the combined implementation of a Comprehensive Safeguards Agreement and an Additional Protocol allows IAEA to fully achieve the objectives of article III of the Non-Proliferation Treaty. These two legal instruments are necessary for the Agency to draw the broader conclusion that all nuclear material in a State remained in peaceful activities, by verifying both the non-diversion of declared nuclear material, and the absence of undeclared nuclear material, facilities and activities. A Comprehensive Safeguards Agreement, together with an Additional Protocol, represents the current verification standard under article III of the Non-Proliferation Treaty. Additional Protocol universalization remains a priority during this review cycle.

10. The combined implementation of these two instruments leads to a more effective and efficient international verification system which contributes to strengthening our collective security and helps to create an environment conducive to nuclear cooperation and sustainable development. From the State perspective, the advantage of the Additional Protocol implementation is that, when the broader conclusion has been drawn by the Agency, there is a higher degree of confidence in a State's compliance with its non-proliferation obligations. For IAEA, the implementation of an optimized combination of safeguards measures available under these two legal instruments allows for increased confidence as well as a better allocation of resources.

Promoting the universalization of the safeguards system

11. Progress has been encouraging over the last few years with regard to the conclusion of safeguards agreements and Additional Protocols. It is particularly noteworthy that currently, only three Non-Proliferation Treaty States Parties have not yet brought into force their Non-Proliferation Treaty safeguards agreements. Among the 191 Non-Proliferation Treaty States Parties having a safeguards agreement in force with the Agency, a large majority of States also have an Additional Protocol in force. The trend was constant in recent years: while in May 2005 only 66 States with safeguards agreements in force also had Additional Protocols in force, by June 2010 this number had risen to 101, and currently 143 States also have an Additional Protocol in force. IAEA continues its reinvigorated efforts to ensure that this positive momentum is maintained and that wider adherence to the strengthened safeguards system is achieved.

12. It is worth noting that 14 States have the outdated version of a small quantities protocol to their Comprehensive Safeguards Agreements. The Board of Governors approved a modified text of the small quantities protocol in 2005 and since that time has called upon States with the original small quantities protocol to modify or rescind the outdated version. Beginning in 2024, IAEA has stated that it can no longer draw safeguards conclusions for States with original small quantities protocols.

13. Through its outreach activities, IAEA has gained a better understanding of the key policy, legislative, administrative and technical factors that may affect States' consideration of the conclusion of Comprehensive Safeguards Agreements and Additional Protocols. To address these factors, States could focus on the following steps:

(a) **Policy factors.** States could elevate the priority given to nuclear non-proliferation within their national agendas and enhance awareness of the critical role that strengthened safeguards play in international security. By fostering a deeper understanding of the benefits of robust verification mechanisms, States can build confidence in the non-proliferation regime as well as in the peaceful nature of their own activities;

(b) **Legislative factors.** States could enhance their understanding of legal requirements related to nuclear safeguards and seek legislative assistance where needed. Efforts could be made to harmonize national laws with the requirements of an Additional Protocol by ensuring that legal frameworks allow for the collection and sharing of information for declarations, for instance, export/import monitoring;

(c) **Administrative factors.** States could improve coordination between nuclear regulatory authorities and relevant ministries to streamline the process of concluding international agreements. Establishing clear communication channels between nuclear authorities, relevant companies and research facilities will enhance information-sharing for declaration purposes. Additionally, raising awareness among policymakers and lawmakers about the significance of nuclear safeguards and providing targeted training can help address concerns about complexity and technicality;

(d) **Technical factors.** States could establish or strengthen their State systems of accounting for and control of nuclear material (SSAC) by designating a safeguards focal point and ensuring adequate resources for its State authority designated for safeguards implementation. Enhancing technical expertise through training and capacity-building initiatives will improve understanding of declaration requirements. Seeking technical assistance from IAEA, through the COMPASS initiative for instance, or from other States can further support the effective implementation of safeguards obligations.

14. IAEA actively facilitates and assists requesting States in the conclusion and entry into force of Comprehensive Safeguards Agreement and Additional Protocols, including for example specific measures to assist States to implement legal requirements. In particular, relevant States could take advantage of:

(a) High-level dialogue and consultations between the Agency and State representatives promoting adherence to the current verification standard of IAEA safeguards, including facilitating the conclusion of safeguards agreements and Additional Protocols, and the amendment or rescission of small quantities protocols;

(b) National and regional seminars as well as workshops, trainings sessions and meetings with national stakeholders to promote the current verification standard of IAEA safeguards and support States in preparing to implement safeguards agreements;

(c) Safeguards guidance documents, forms, templates and other reference documents available from IAEA;

(d) Tailor-made IAEA outreach visits to provide advice on policy, legislative and technical aspects of safeguards, in particular to relevant States with significant nuclear activities that are considering concluding Additional Protocols;

(e) Continued technical and legislative assistance for Additional Protocol implementation;

(f) National, regional and interregional training of State systems of accounting for and control of nuclear material organized by the Agency and other States to support States in fulfilling safeguards obligations;

(g) Advisory missions to evaluate the performance of State systems of accounting for and control of nuclear material and make recommendations in this regard, thereby assisting States in fulfilling safeguards obligations.

15. In coordination with other States and with the Agency, States could pursue and intensify activities aimed at promoting the universalization of the IAEA safeguards system by:

- (a) Conducting bilateral and multi-country démarches;
- (b) Promoting the conclusion of Comprehensive Safeguards Agreements with modified small quantities protocols (where applicable) and Additional Protocols as priorities during bilateral consultations on security and non-proliferation;
- (c) Organizing international conferences, seminars and training events;
- (d) Sharing their experience of the Additional Protocol preparation and implementation;
- (e) Providing assistance in the implementation of relevant instruments, including through cooperative training programmes and State-to State assistance in legislative drafting.

16. In a more general manner, States could be encouraged to strengthen the effectiveness of IAEA safeguards by taking or continuing to implement the following measures:

- (a) Conclude and bring into force, for the three Non-Proliferation Treaty States Parties that have yet to do so, a Comprehensive Safeguards Agreement before the 2026 Non-Proliferation Treaty Review Conference;
- (b) Sign, ratify and bring into force, for those States that have not done so yet, an Additional Protocol to their safeguards agreement without delay;
- (c) Amend or rescind their small quantities protocol without delay, especially for States that are already in the process of building a nuclear power plant or research reactor;
- (d) Cooperate fully and expeditiously with the Agency in providing access to facilities, sharing accurate information and adhering to legal obligations under the safeguards agreements, including the provision of design information on nuclear facilities as soon as a decision is taken to build or authorize construction or to modify a facility, as provided for by modified code 3.1 of the general part of the model subsidiary arrangements to the Comprehensive Safeguards Agreement;
- (e) Pay due attention to export control of nuclear material, equipment and technology and exert particular vigilance with regard to sensitive nuclear material, equipment and technology with proliferation potential.

17. It must be of paramount priority for all Non-Proliferation Treaty States Parties to redouble our efforts to strengthen the implementation of IAEA safeguards. Fulfilment of Non-Proliferation Treaty obligations, such as negotiating a safeguards agreement with IAEA, and the universalization of the Additional Protocol, are essential to ensuring the effectiveness of the IAEA safeguards system as a fundamental component of the nuclear non-proliferation regime.