

THE OVERSIGHT AND ENFORCEMENT MECHANISMS OF THE NUCLEAR NON-PROLIFERATION REGIME

The roles of the IAEA and the UN Security Council



The IAEA and the Security Council

The International Atomic Energy Agency (IAEA) is the UN's central institution for cooperation and oversight in the nuclear field. It was conceived out of US President Eisenhower's 'Atoms for Peace' address to the UN General Assembly on 8 December 1953, and was established in 1957 in response to the fears and expectations accompanying the discovery of nuclear energy.

The IAEA's statute outlines the three pillars of the Agency's work in safeguarding global disarmament: nuclear verification and security; safety; and technology transfer. Under its statute, the Agency is mandated to notify the UN Security Council, as the organ with primary responsibility for the maintenance of international peace and security, of non-compliance with international agreements relating to the use of nuclear energy.

Oversight and enforcement mechanisms

In accordance with its statute, the IAEA reports annually to the UN General Assembly and as required to the Security Council on any non-compliance by states with their nuclear non-proliferation obligations. The Security Council then decides whether to take any enforcement action.

This process comprises three stages:

- Inspectors report any non-compliance to the IAEA Director General who then transmits the report to the IAEA Board of Governors.
- The Board calls on the relevant state or states to remedy any non-compliance which has occurred.
- The Board reports any continuing non-compliance to all IAEA members, the Security Council and the General Assembly.

Responding to change

During the 1960s it became evident that the safeguards measures prescribed in the IAEA statute - designed chiefly to address individual nuclear plants or supplies of fuel - were inadequate. This recognition led to the establishment in 1970 of the Nuclear Non-Proliferation Treaty (NPT), which imposed international, legally-binding commitments to halt the spread of nuclear weapons and promote their eventual elimination. The NPT also established a stronger safeguards system under the responsibility of the IAEA, to support non-proliferation and to build confidence among states parties.

Key elements of this system are:

- Safeguards agreements are used to verify compliance with the NPT through inspections conducted by the IAEA.
- Non-nuclear-weapon state parties to the NPT enter into individual safeguards agreements with the IAEA to allow the detection of any diversions of nuclear material from civilian programmes, such as power generation, to weapons production.
- Under these agreements, all nuclear materials under the jurisdiction of the state must be declared to the IAEA, whose inspectors have routine access to the relevant facilities for periodic monitoring and inspections.
- If the IAEA judges that information derived from routine inspections is insufficient, the IAEA may consult with the state regarding special inspections within or outside declared facilities.

Comprehensive Test Ban Treaty (CTBT)

In 1996, the UN General Assembly passed and opened for signature a treaty banning states from conducting nuclear-test explosions. This treaty created a new set of verification activities for the IAEA. The CTBT assigned to the Agency the challenges left over from the nuclear arms race of the Cold War, including verifying the safe storage or peaceful use of nuclear material from dismantled weapons and surplus military stocks of fissile material, evaluating the risks posed by abandoned nuclear warships, and verifying the safety of former nuclear-test sites.

1997 Additional Protocol

The discovery of Iraq's clandestine weapon programme in 1991 fostered doubts about the adequacy of IAEA safeguards and verification activities, and prompted steps to strengthen these systems. In 1997 a voluntary 'additional protocol' to the existing verification agreements between the Agency and each state gave the Agency new verification rights and expanded inspectors' access to states' nuclear activities.

Countering the threat of nuclear terrorism

In 2004, the IAEA was given yet another important task, that of overseeing the UN's work in countering the threat of nuclear terrorism. Security Council resolution 1540, unanimously adopted under Chapter VII of the UN Charter, prohibits all states from supporting non-state actors attempting to acquire, use or transfer nuclear, chemical or biological weapons and their delivery systems. UNSCR 1540 called on all states to implement domestic controls and legislative measures to prevent the proliferation of such weapons and means of delivery. The resolution further established a committee, comprising all Council members, to report on the implementation of the resolution.

Strengthening oversight and enforcement mechanisms

- **Restrict access to nuclear technology.** The growing number of countries with 'dual use' nuclear technology poses a problem that was not originally envisaged in the NPT. To prevent the diversion of civilian nuclear programmes to weapons production, proposals have been made to restrict access to the more sensitive parts of the nuclear fuel cycle. A number of initiatives, for example, call for the establishment of a nuclear fuel bank, under the management of the IAEA, which can be utilised by every country in compliance with its non-proliferation agreements.
- **Protect nuclear materials.** The spread of nuclear technology and knowledge and the emergence of clandestine nuclear procurement networks make protecting existing nuclear and radioactive material an urgent priority. Efforts are under way, led by the IAEA, to monitor attempts to smuggle this material and to build the capacity of states to secure their nuclear sites and materials.
- **Mainstream the additional protocol.** The strengthened IAEA verification role enshrined in the 1997 additional protocol applies only to the countries that have signed it; 111 out of 189 state parties still do not have additional protocols in force. Until the additional protocol is universalised, the IAEA's verification capacity will remain constrained.
- **Increase the budget of IAEA.** The IAEA's regular budget for 2006 was under €274 million; of this, only €100 million was made available for the IAEA's verification activities. If the Agency is to fulfil its responsibilities effectively, including overseeing over 900 nuclear facilities in 71 countries, a far larger budget is required.
- **Extend the NPT to all states.** To contain illegal trafficking of nuclear material and prevent terrorist infiltration, robust international cooperation is essential. The existing multilateral framework for nuclear non-proliferation needs to be urgently strengthened and participation universalised.
- **Make the Security Council more effective.** Increasing the effectiveness of the UN Security Council would be an obvious way to strengthen the oversight and enforcement mechanisms of the nuclear non-proliferation regime. The recent resolutions passed by the Council on Iran (S/RES/1696) and North Korea (S/RES/1718) suggest an increased appetite among its members to cooperate to confront non-compliance - a trend which should be supported.

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