

IAEA Board of Governors, September 2022

Agenda Item 10: Transfer of the nuclear materials in the context of AUKUS and its safeguards in all aspects under the NPT

Right of Reply

Delivered by: Ambassador Corinne Kitsell of the UK on behalf of AUKUS Partners

Chair,

I take the floor on behalf of the United Kingdom, the United States and Australia to respond to comments made about Australia's proposed acquisition of conventionally-armed, nuclear-powered submarines.

Three points on process. Firstly, as noted at the adoption of the agenda, in order to support the Board's efforts to address genuinely pressing issues this week and to limit time spent on procedural matters, we did not block consensus on the addition of this agenda item. But to be clear, in common with many other Board members who have expressed their views, that does not mean we support it. There is no consensus.

Secondly, on the need for a standing agenda item on AUKUS. At this early stage this is premature and I note that other Board members have made a similar point. That said, let me be clear: we welcome the DG's decision to report on AUKUS at this Board and we requested an agenda item, item 8(d), entitled 'Agency safeguards in the context of naval nuclear propulsion under AUKUS' in order to give the Board an appropriately neutral, non-political place to discuss the DG's report. We will continue to update the Board at future meetings under AOB, or when appropriate under an agenda item which facilitates factual, technical discussions, in an effort to avoid inappropriate politicisation of the issue for geopolitical reasons.

Thirdly, China has suggested that this Board (quote) "has launched ... an inter-governmental discussion process ... under a three-time consensual standalone agenda item" (unquote) on AUKUS. This is clearly false. This Board has launched no such process and has no need to because the IAEA already has the clear authority to engage Member States on issues related to naval nuclear propulsion.

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Chair,

Moving on from process to substance, we have provided a substantive update on our non-proliferation efforts and safeguards approach in relation to AUKUS under agenda item 8(d) – the appropriate place for such an update. In the interests of time, I will not repeat those.

This has been a long week and I do not want to take up even more of colleagues' time so I apologise in advance for the length of this statement. But unfortunately, Chair, we have again heard several misleading statements and inaccurate assertions, which I will respond to now – focusing on those that relate to the mandate of this Board and the IAEA.

First, Chair, the proposal by China to create a so-called 'special committee' or 'inter-Governmental process'. This risks undermining the IAEA's independence and technical authority. We join others in firmly rejecting this. The IAEA has a well-established mandate to engage with Member States on safeguards issues, and all Member States have the right to engage with the IAEA on matters pertinent to their safeguards agreements and arrangements. It is not the place of one Member State to interfere with the implementation of safeguarding arrangements of others. This would establish a deeply harmful precedent.

Second, is the related question of AUKUS partners' engagement with the IAEA. China has asserted that the IAEA and AUKUS partners should not be permitted to engage on naval nuclear propulsion. Not only is such engagement appropriate but there is a firm legal basis in Australia's Comprehensive Safeguards Agreement and the IAEA Statute. This has been confirmed by the DG on multiple occasions, including in his report on AUKUS to this Board. Any suggestion that the DG is not mandated to engage with Member States on such issues is false, and risks undermining the IAEA's independence, upon which we all rely as a critical element of the global non-proliferation regime. The DG's report further confirms that the IAEA regularly has such interactions on safeguards implementation matters with all States that have safeguards agreements in force.

Third, on the reference in Article 2 of the IAEA Statute to military purposes. China's assertion is deeply misleading. The IAEA Statute states that the Agency shall

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ensure “that assistance provided by it...is not used in such a way as to further any military purpose.” As noted above, the Agency is not providing “assistance” to the AUKUS partners; rather, it is consulting with the AUKUS partners as the IAEA is required to by its safeguards mandate. The application of safeguards is not Agency “assistance.” Rather, the Agency has a legal obligation, on which the international community relies, to verify that nuclear materials are not diverted.

Fourth, we have heard the suggestion that Australia’s acquisition of naval nuclear propulsion is not consistent with the NPT. This is not true. As the DG has said, including last month at the NPT RevCon in New York, the NPT does not prohibit naval nuclear propulsion.

Fifth, China has suggested that the AUKUS partnership involves (quote) “the illegal transfer of nuclear weapons materials” (unquote) in violation of the NPT. This assertion is also false. No “nuclear weapons materials” will be transferred to Australia. Any nuclear material transferred would be in the form of naval reactor fuel and provided in complete, welded power units. The NPT prohibits nuclear-weapon States Parties from transferring nuclear weapons and nuclear explosive devices to any recipient whatsoever. AUKUS co-operation does not and will not involve nuclear weapons or any nuclear explosive devices. Australia has been crystal clear that it does not seek nuclear weapons, and under no circumstances will the United States or the United Kingdom transfer nuclear weapons to Australia. Any co-operation envisioned under AUKUS will be fully compliant with our respective obligations under the NPT.

Sixth, it has been suggested that Australia has failed to comply with its reporting requirement under Modified Code 3.1. This is also false. The DG has confirmed that Australia is in full compliance with its safeguards obligations, including its reporting obligations under its CSA. It is true that the then Prime Minister of Australia announced in March 2022 that the Australian Government was considering three different sites to host a submarine base on the east coast of Australia. But no decision has actually been taken by Australia to construct a new nuclear facility. Modified Code 3.1 only applies once a decision has been made to construct, or to authorise construction of, a nuclear facility. Clearly it is not possible to submit design information before it exists.

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And seventh, Chair, it is deeply concerning to hear China calling into question the legitimacy and integrity of the IAEA, an Agency on which all Member States rely. The AUKUS partners have full confidence in the ability of the IAEA Director General and Secretariat to carry out the Agency's mission and mandate. We commend the Director General, the Secretariat, and you, Chair, for your professionalism in handling these matters in the face of disruptive and personal attacks and procedural challenges.

Chair,

We commend the Director General's report to all Members.

In summary, the report makes clear that naval nuclear propulsion is legitimate under the NPT regime, and that Australia has complied with its reporting obligations under its CSA and Additional Protocol, including those required under Modified Code 3.1 of the Subsidiary Arrangements to its CSA.

Thank you, Chair. And sincere apologies once again for the length of this intervention.