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*Atoms for Peace and Development*

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# IAEA safeguards in relation to AUKUS

*Report by the Director General*

## **A. Introduction**

1. This report of the Director General is on Agency safeguards in relation to “AUKUS” - the “enhanced trilateral security partnership” between Australia, the United Kingdom of Great Britain and Northern Ireland (United Kingdom) and the United States of America (United States).<sup>1</sup>

## **B. Background**

2. On 15 September 2021, Australia, the United Kingdom and the United States informed the Director General about their decision to initiate a trilateral effort of 18 months to “identify the optimal pathway to support Australia’s acquisition of a conventionally armed, nuclear-powered submarine for the Royal Australian Navy”.<sup>2</sup> They also stated that as they develop the details of this trilateral cooperation, they would do so with “the critical objective of maintaining the strength of both the nuclear non-proliferation regime and Australia’s exemplary non-proliferation credentials” and that the parties would be “engaging with the IAEA throughout the coming months”.<sup>3</sup>

3. On 16 September 2021, the Director General informed the Board of Governors that the Agency, in line with its statutory non-proliferation mandate, would engage with the three countries involved and consider any implications in the context of the application of Agency safeguards. The Director General

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<sup>1</sup> Joint Leaders Statement on AUKUS, INFCIRC/963.

<sup>2</sup> INFCIRC/963, Note Verbale.

<sup>3</sup> INFCIRC/963, Note Verbale.

recalled that under a comprehensive safeguards agreement (CSA), a State undertook to accept Agency safeguards on all nuclear material in all peaceful nuclear activities within its territory, under its jurisdiction or carried out under its control anywhere. He also noted the provision in the CSA regarding the non-application of safeguards to nuclear material to be used by States in certain non-proscribed military activities. He reiterated that the Agency would work with the interested parties on that complex, technical matter guided by its non-proliferation mission which would be observed, in accordance with both the Agency's statutory mandate and the CSA.<sup>4</sup>

4. Article 14 of Australia's CSA<sup>5</sup> concluded with the Agency in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)<sup>6</sup> provides that if Australia intends to exercise its discretion to use nuclear material<sup>7</sup> which is required to be safeguarded under the CSA in a nuclear activity which does not require the application of safeguards under the CSA, the procedures provided in paras (a) – (c) of Article 14 shall apply. Australia has engaged with the Agency with respect to the development of suitable verification measures to enable the Agency to confirm the non-diversion of nuclear material from nuclear-powered submarines. Australia indicated that such an approach would operate under Australia's CSA and Additional Protocol (AP). The Agency will continue the consultations with Australia to develop a detailed verification approach. With respect to that approach, Australia has informed the Agency that it considers all relevant provisions of its CSA – including Article 14 – and of its AP, as well as additional safeguards measures, which may include enhanced transparency and access, to be applicable. In developing that approach, the Agency will protect the related classified information, as required in Australia's CSA and AP as well as the Agency's regime for the protection of classified safeguards information.

5. The Board of Governors has authorized the Director General “to conclude and subsequently implement” all safeguards agreements submitted to it, including the CSA with Australia,<sup>8</sup> the voluntary offer safeguards agreement (VOA) with the United States<sup>9</sup> and the VOA with the United Kingdom.<sup>10</sup> In accordance with the provisions set out in the above-mentioned safeguards agreements providing for cooperation between the parties to facilitate safeguards implementation, and based on longstanding Agency practice, the Director General has consulted and engaged with Australia, the United States and the United Kingdom on the implementation of safeguards pursuant to their respective safeguards agreements in the context of naval nuclear propulsion under AUKUS. The Agency regularly has such interactions on safeguards implementation matters with all States with safeguards agreements in force. The Agency's aim is to ensure that the safeguards measures and approach to be used in the context of naval nuclear propulsion under AUKUS will enable the Agency to attain the technical objectives

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<sup>4</sup> GOV/OR.1602, paras 42–44.

<sup>5</sup> Reproduced in document INFCIRC/217.

<sup>6</sup> “It is inferred from the NPT (Articles II and III) that States are not precluded from using nuclear material that has been under Agency safeguards, in military non-explosive applications”. “This would not apply to nuclear material that has been provided by the Agency, or is otherwise subject to restriction requiring that it be used for peaceful purposes only.” (See GOV/COM.22/3, para. 10 and footnote 5). Provisions regarding the non-application of safeguards to nuclear material to be used in non-peaceful activities, e.g. in a non-proscribed military activity such as nuclear-powered submarines, were included in para. 14 of INFCIRC/153 which has been used as the basis for negotiating safeguards agreements between the Agency and non-nuclear-weapon States party to the NPT. Consequently, such provisions were also included in all CSAs concluded on that basis.

<sup>7</sup> “Nuclear material” means any source or any special fissionable material as defined in Article XX of the Statute (...). See Article 99.O. of INFCIRC/217.

<sup>8</sup> Reproduced in document INFCIRC/217.

<sup>9</sup> Reproduced in document INFCIRC/288.

<sup>10</sup> Reproduced in document INFCIRC/951.

established for Australia.<sup>11</sup> The Agency's capability to develop suitable verification measures and approach in the context of naval nuclear propulsion under AUKUS is enhanced by Australia having in force and implementing the AP.

## C. Technical consultations and engagement

6. The Director General, on 24 November 2021, informed the Board of Governors that the Secretariat had yet to receive additional information concerning AUKUS from the parties. He expressed the Agency's readiness to engage with all of the parties to discuss the safeguards implications of AUKUS.

7. On the same date, the Agency sent separate letters to Australia, the United Kingdom and the United States reminding them of their reporting obligations under their respective safeguards agreements and APs that could be of relevance to safeguards implementation in the context of naval nuclear propulsion under AUKUS.

8. In its letter to Australia, the Agency reminded that country that, in accordance with modified Code 3.1 of the Subsidiary Arrangements (General Part) to the CSA, Australia was required to provide early design information for any new facility as soon as it had decided to construct or authorize construction of such a facility, including in connection with its plans to acquire nuclear-powered submarines. Australia was also required, under its AP, to provide to the Agency information on its general plans for the succeeding ten-year period relevant to the development of the nuclear fuel cycle (NFC), including those related to NFC-related research and development activities, when approved by the appropriate authorities in Australia. Australia, in its reply dated 31 January 2022, informed the Agency that it had yet to take a decision "to either construct or authorise construction of any nuclear facility in connection with the acquisition of nuclear-powered submarines". Australia reiterated that it remained "fully committed to meeting its obligations and commitments", including those related to reporting, under the NPT, CSA and associated Subsidiary Arrangements, and the AP.

9. The United States, in its reply dated 31 January 2022, informed the Agency that, as a result of the ongoing 18-month consultation period, should "decisions be made or actions be taken that would require the United States to provide information or declarations" to the Agency pursuant to its obligations under its VOA and AP, the United States would do so in a timely manner. The United States also indicated that it was "mindful" of its commitment to maintain and strengthen the nuclear non-proliferation regime and of its obligations under the NPT, VOA, and AP, and that it would "ensure appropriate transparency".

10. The United Kingdom, in its reply dated 1 February 2022, informed the Agency that the United Kingdom had noted the reporting requirements set out in the VOA and AP, stated that it "fully intends to fulfil these requirements and report to the IAEA as necessary" and that it was "fully committed to maintaining the strength of the global nuclear non-proliferation regime" and to engaging with the Agency on matters relating to AUKUS.

11. The Director General, on 7 March 2022, informed the Board of Governors that during recent engagement with the Agency the three parties concerned had informed the Secretariat that they understood their obligations and that they were fully committed to fulfilling them as AUKUS materialized and that a first technical meeting had been held between the three parties and the

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<sup>11</sup> GOV/2014/41, Section C.4 and C.4.1.

Secretariat's AUKUS team.<sup>12</sup> He also mentioned that all parties were committed to ensuring that the highest non-proliferation and safeguards standards were met.

12. The Director General, on 6 June 2022, informed the Board of Governors that since March 2022, two further technical meetings between the three parties and the Secretariat's AUKUS team had been held and that further meetings were scheduled over the coming months. He also expressed satisfaction with the engagement and transparency shown by the three countries thus far.

13. In the annual update of the AP declarations for 2021, Australia submitted to the Agency on 10 May 2022 a declaration relating to the AUKUS partnership in which Australia reported that a framework for the disclosure and use of information relevant to naval nuclear propulsion among the three partners in AUKUS had been established to enable Australia to determine the optimal pathway to deliver conventionally-armed, nuclear-powered submarines. Australia further informed the Agency that, as of March 2022: no activities listed in Annex I of the AP had either been conducted or were planned; no transfers of equipment/material listed in Annex II of the AP had either taken place or were planned; and no decision had been taken to construct or otherwise acquire any nuclear reactor or other nuclear facility in connection with AUKUS. Australia stated in this declaration that it "does not intend to undertake enrichment of nuclear material or reprocessing of nuclear fuel in support of the nuclear-powered submarine program".

14. The Director General, in a visit to Australia, had discussions with Prime Minister Anthony Albanese on 9 July 2022 during which the Prime Minister highlighted Australia's "unwavering commitment to nuclear non-proliferation in the context of AUKUS".<sup>13</sup>

15. In a letter to the Director General dated 21 July 2022, Australia, on behalf of the AUKUS parties, stated, inter alia, that the AUKUS parties sought an optimal pathway to deliver a conventionally-armed, nuclear-powered submarine capability to Australia. According to Australia, their approach is framed by four key elements:

- (i) with regard to the nuclear fuel cycle, Australia stated that it "will not pursue uranium enrichment or reprocessing in relation to this initiative" and has "no plans to undertake nuclear fuel fabrication as part of this effort";
- (ii) "it is proposed that Australia would be provided with complete, welded power units. These power units are designed so that removal of any nuclear material would be extremely difficult and would render the power unit, and the submarine, inoperable. Further, the nuclear material inside of these reactors would not be in a form that can be directly used in nuclear weapons without further chemical processing, requiring facilities that Australia does not have and will not seek";
- (iii) Australia stated that it was "already engaging the IAEA regularly with respect to the development of a suitable verification approach to confirm the non-diversion of nuclear material from Australian nuclear-powered submarines. Developing the detail of the verification process will take some time, but we have already confirmed our approach will operate under Australia's CSA and its AP"; and
- (iv) "Australia will work with the IAEA to continue to implement and deepen additional safeguards measures outside of the nuclear-powered submarine program to maintain international

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<sup>12</sup> The Secretariat's AUKUS team was established by the Director General in September 2021 (Introductory Statement by the Director General to the Board of Governors, 7 March 2022). The team is headed by the Deputy Director General for Safeguards.

<sup>13</sup> <https://www.iaea.org/newscenter/news/australia-committed-to-nuclear-non-proliferation-and-science-iaea-chief-visit>.

confidence that there is no undeclared nuclear material or activity in Australia. Those measures may include enhanced use of transparency and access under Australia's CSA and AP, and, where relevant, the voluntary development of new measures with the IAEA”.

16. Since the June meeting of the Board of Governors, four further technical meetings between the three parties and the Secretariat's AUKUS team had been held and further meetings are scheduled over the coming months.

17. The Agency notes that in each year since 2000 it has drawn the safeguards conclusion for Australia that all nuclear material remained in peaceful activities (so called “broader conclusion”). Australia has also complied with its reporting obligations under its CSA and AP, including those required under Modified Code 3.1 of the Subsidiary Arrangements to its CSA.

18. The Agency, on the basis of technical consultations and exchanges it has conducted with the AUKUS parties to date, is satisfied with the level of their engagement. As the consultations among the AUKUS parties are still underway, the technical discussions related to the development of suitable verification measures and approach are without prejudice to final decisions to be taken and announced by the AUKUS parties.

## **D. Summary**

19. Since November 2021, the Agency has engaged, and held technical consultations with, Australia, the United Kingdom and the United States to discuss the possible implications of naval nuclear propulsion under AUKUS on the implementation of Agency safeguards. Such technical consultations will continue for the foreseeable future. The Agency recognizes that AUKUS is at an early stage and that precisely how it will develop has yet to be decided by the parties involved.

20. The Director General welcomes the AUKUS parties' engagement with the Agency to date and expects this to continue in order that they deliver on their stated commitment to ensuring that the highest non-proliferation and safeguards standards are met.

21. The Director General will continue to report as appropriate.