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INTERNATIONAL ATOMIC ENERGY AGENCY - THE PROBLEMS OF CONTROLS

Statement delivered October 12 at United Nations Headquarters by Mr. W.H. Wershof, Head of the Canadian Delegation to the Conference on the Statute of the International Atomic Energy Agency, on Article XII of the Statute.

In his opening statement in the general debate, Mr. Chairman, the distinguished representative of India pointed out quite correctly that the problem of safeguards was far more important and difficult than any other facing this conference. It is more difficult because it necessarily raises in sharp form conflicts between differing objectives and points of view, all of which are deserving of consideration and sympathy.

My Government hopes to see atomic energy developed greatly as a source of power and production during the next several decades. We hope to see this both at home and in other countries throughout the world, especially those which are short of hydro power and conventional fuels. We are confident that the establishment and effective operation of the International Agency will assist greatly in this development, and we support the Agency for that reason. We expect, however, that the primary role of the Agency may be to assist countries in planning, organizing and setting up their atomic programmes, and that much of the content of those programmes will be based upon equipment, materials and services furnished from one country to another in the ordinary course of trade. In the case of source materials, for example, we would expect that the normal pattern will consist of ordinary commercial transactions between individual countries.

Whether the resources which countries require for the development of atomic power will move internationally through the Agency or through normal trade channels, we feel it is not only desirable but essential to have safeguards against the diversion to military purposes of special fissionable materials (as they are called in the statute). We believe that the export of equipment or materials for military purposes, if that takes place, must be treated as an export of arms and regulated as such. We think it is highly desirable that the export of equipment and materials for peaceful purposes should not be mixed up with this difficult question of the export of arms. Indeed, if it is so mixed up, we are quite sure that such equipment and materials will move less freely among nations.

I should like for a moment to mention this question of military uses, since the question must be in our minds when we consider the problem of safeguards. Surely, the widespread availability of atomic weapons is highly undesirable. If any countries are to produce or have atomic weapons, it is the view of my Government that they should be known to have them, and should not acquire them clandestinely with the aid of international transactions that appear to be for peaceful uses.

If the peaceful development of atomic energy to which we all look forward is to be as rapid and widespread as it should be, the Agency in the opinion of the Canadian Government must provide a mechanism whereby all countries will be in a position to obtain what they need for peaceful atomic programmes with assurance for all that resources or assistance so obtained will be used only for peaceful purposes. We believe that the control provisions in the draft statute are well designed to meet this purpose, and we also believe that they would not serve the purpose effectively if their scope should be reduced. I shall return shortly to the detailed provisions of the control article to demonstrate why in our view those provisions should be retained in substance in their present form.

Before doing so, however, I should like to discuss further the need for incorporating adequate control measures in the statute. We all recognize that these measures cannot of themselves prevent individual nations from obtaining nuclear weapons. We recognize, moreover, that if the control measures were applied unreasonably they might force countries to turn away from the Agency. But we should also look carefully at the reverse of the coin - the situation which exists now and could continue indefinitely in the absence of a generally acceptable system of adequate Agency safeguards.

Because the Agency and its safeguards do not now exist, countries having resources and information to dispose of are necessarily selective in making them available. The criteria they use differ from one country to another. Some nations requiring material, equipment and assistance have difficulty in obtaining suppliers. When assistance is given it is, naturally enough, often channeled in accordance with political judgments which, although quite understandable under the circumstances, unquestionably tend to distort normal patterns of trade and impede the equitable development of atomic power.

It seems to us that the indefinite continuation of this situation would have several bad effects. Firstly, it would reduce the amount of resources furnished by exporting countries to the many countries needing to import them for the development of atomic energy for peaceful purposes, because the risks in this field are too serious to accept even for worthy reasons. Secondly, it will result in continued discrimination based upon judgments of the political alignments or attitudes of countries wishing to import atomic resources, discrimination which could be avoided if there were proper safeguards. Thirdly, we are almost certain to see, as attempts to overcome these two effects, bilateral systems of safeguards created by ad hoc agreements which are more likely to be discriminatory in effect and more of an affront to the sovereignty and dignity of nations than are safeguards worked out and carried out by an independent international agency. In the creation and operation of this Agency we will all have a hand, and in it proper international scrutiny can be applied to see that the safeguards are administered as it was intended that they should be.

For the reasons I have just mentioned, my Government attaches great importance to the particular provision in the draft statute permitting the extension of Agency safeguards to bilateral or multilateral transactions outside the Agency with the consent of all parties to the transactions concerned. We believe that this provision, while of course merely permissive, is an important one in that it permits the application by agreement of the parties concerned of safeguards to all international transactions in atomic materials, a practice which is desirable in the interests of all countries. My Government welcomes also

the proposal originally introduced by the distinguished representative of Thailand (as Amendment 12 to Article III) that Agency safeguards should be extended not only to such international transactions, but also, at the invitation of the country concerned, to individual national projects within member countries.

It has been said by some that a system of safeguards applied to all peaceful international atomic transactions is in effect discriminatory, on the ground that the safeguards will have practical effect on the programmes only of those countries requiring outside assistance. It is true that the system will not affect in any way the activities of countries not requiring any assistance and that it will not have any practical effect upon the activities of countries declaring a military atomic programme and able to provide for themselves or obtain elsewhere the resources required for that purpose. That degree of difference is inevitable since we can hope in establishing this Agency to exercise control only through international transactions directed to peaceful ends. But partial effectiveness and some toleration of differences is well worth achieving and accepting in this field where the dangers resulting from the clandestine diversion of resources into weapons could be very great indeed. To the extent that discrimination remains, it will not be due either to the principle of safeguards or to their form, but due rather to the fact, which must be faced, that there is no general agreement on disarmament which would impose safeguards on the atomic programmes of all countries. Continued inequalities of access to the assistance for peaceful programmes which it is the main purpose of the Agency to provide would clearly represent a failure of this conference in its assigned task, while inequalities of access to atomic weapons already exist and do not constitute a question with which we can or should deal in this Conference. We should not delay the valuable work that can be done by an agency of this kind, particularly for under-developed countries, until the Great Powers had achieved a solution to the difficult question of disarmament.

Moreover, it should be noted that the system contemplated by Article XII will impose obligations and burdens not only upon the countries requiring outside assistance in their peaceful programmes but also, indirectly, upon those countries seeking export markets for their resources. The application of such safeguards will necessarily affect the terms and dates upon which they are able to offer the materials in question, hence putting them at a disadvantage in competition with other suppliers who might not accept the obligations involved. It is apparent, therefore, that the system can be effective only if it is broadly accepted by the recipient and supplying countries alike. I submit, however, that it is in the interest of all, whether they be recipients or suppliers or both, to accept these obligations.

I should like now to turn to the actual provisions of Article XII of the draft statute. It is important to recognize first that the rights and responsibilities assigned to the Agency in the individual provisions relating to safeguards are to be exercised in connection with any individual project, in the words of the statute, "to the extent relevant to the project or arrangement". By virtue of Article VI.F specifying that the Board of Governors shall carry out the functions of the Agency, it will in fact be the Board which will act for the Agency in connection with the application of safeguards. It is therefore clear that in any individual case, whether it applies to a project in which the Agency participates directly or to some transaction or arrangement outside the Agency for which the Agency is requested to apply safeguards, the Board of Governors will have to determine.

with the benefit of the best technical advice and in the light of the views expressed by the individual countries or countries involved, the form and extent of the particular safeguards which are in fact relevant. In other words, the Board will conclude agreements with one or more individual countries in connection with all projects in which it participates or provides safeguards, and the Board will have authority to include in those agreements provision for such safeguards as it is permitted under the statute to apply and as it decides to be relevant to the particular project. It is important that in the statute we should assign sufficient permissive authority to the Board to ensure that it has adequate powers to deal properly with any such case that may arise, but this authority is only permissive and the extent to which it will be exercised in any individual project must be determined by the Board in relation to that project.

The actual permissive authority assigned in this Article in effect provides for control and inspection by the Agency sufficient to ensure that the fissionable materials involved in any project in which the Agency is a participant shall be so accounted for that there is no reasonable likelihood that they could be diverted to purposes other than those declared. This, it seems to us, is the essential feature of the control article. Unless this feature is retained no country can have real confidence in the efficacy of Agency controls. Obviously this means in the first place that what are called special fissionable materials must be subject to control at all times. In referring to special fissionable materials I have in mind those materials enriched in their fissionable content so that in some forms and in some degrees of enrichment they might be directly utilized in connection with the production of weapons. The provisions of the Article also mean that there must be sufficient accounting for source materials used in a project to ensure that the special fissionable materials which may be produced from them can at all times be controlled in the same way. Finally, the article provides that the fissionable products of projects in which the Agency participates, even though the raw fuels involved may not be supplied through the Agency, shall be similarly controlled.

The Agency is also authorized in the Article to require that fissionable products recovered from such projects shall not only be subjected to accounting and control but shall be deposited with the Agency, except where retention for specified non-military use is authorized. My Government believes that this provision is essential if the control of such materials is to be effective. I should make very clear, however, the limitations upon the control which we envisage in connection with such fissionable products. We believe that such products must be regarded as the property of the country from whose project they were derived, even though they are deposited with the Agency for storage. That country alone should be able to determine whether they will be retained in storage for its own future use or whether they should be available for disposition through the Agency to assist programmes in other countries. The Agency should have authority to approve or disapprove the release of such product fissionable materials to the country involved in order to ensure that they will not be used in projects involving risks either to health and safety or of diversion to military use, but the Agency should have no authority to withhold or delay the release of these materials to the country of origin on any other ground. If, in the opinion of the Conference, the existing draft is insufficiently precise on this point, the Canadian delegation, for its part, would be prepared to support an addition to sub-paragraph 5 of paragraph A of Article XIII in the following terms:

"the only criterion for specifying disposition and authorizing retention of such material being to ensure that such material is not used in such a way as to further any military purpose or to endanger health and safety."

There have been a number of amendments proposed to Article XII. I should like in particular to comment on those set out in Amendment 5 submitted by Ceylon, Egypt, India and Indonesia. That amendment first provides for the deletion from line 2 of sub-paragraph A.3 of the words "source and". We do not believe that this deletion would be acceptable since, without those words, the Agency would not have any direct means of ascertaining the nature, quantities or disposition of special fissionable materials which might be produced from source materials supplied. It has been suggested that the control problem is entirely different in the case of source materials from that applying to special fissionable materials. We recognize that there are considerable differences, differences which may perhaps have significant consequences in terms of the form or extent of the controls which the Board of Governors will consider it relevant to apply in the case of arrangements relating to source materials, but the fact remains that source materials are the parents of special fissionable materials and arrangements designed to ensure effective control of special fissionable materials cannot completely ignore source materials. Hence we consider it essential that the authority granted to the Board should extend to source materials, this authority to be exercised in accordance with the Board's decision as to what is relevant. We envisage that the control arrangements which would in fact apply to source material prior to its irradiation would be less extensive than those which must be applied at the later stages to ensure control of fissionable products. Nevertheless the source material supplied must be subject to accountability if the fissionable products are to be controlled, as in our view they must be.

The next of the amendments in Amendment 5 proposes the addition of the word "supplied" after the word "materials" at the end of paragraph A.3. This addition would exempt from controls the fissionable materials obtained in Agency-assisted projects from fuels or raw materials not provided through the Agency. This alteration also we would consider unacceptable, although I recognize that it is related to a subsequent proposal in the same series of amendments and should be considered in relation to that.

Continuing, Amendment 5 proposes to replace the existing paragraph A.5 with a new paragraph in two parts. These relate to the control provisions applicable to special fissionable materials and source materials supplied through the Agency, and to special fissionable materials recovered from source materials supplied by the Agency. As I indicated earlier, we agree that controls upon all of these materials are required, but we do not believe that the proposed amendment is adequate to ensure effective control in that it does not provide for the inspection which would be necessary to verify the accounting for those materials. The amendment also fails to embody the provision for deposit with the Agency of special fissionable materials recovered, a provision which, as I indicated earlier, we consider necessary. The changes proposed for sub-paragraph A.6 are similar to the first two I mentioned and subject in our view to the same objections.

The final change proposed in Amendment 5, the addition of a new paragraph D, enabling the Agency upon request to inspect separation plants in individual countries, appears to us perfectly satisfactory but not essential to the fulfilment of the purposes of the Agency. We shall be happy to support that final proposal, however, if it commends itself to the majority of the conference, and if it is not considered that the amendment to Article III proposed by the distinguished representative of Thailand, and already approved by this committee, adequately covers the point.

I have directed my attention particularly to the changes proposed in Amendment 5 to this Article because those changes seem to me to set before us the essential problem relating to controls upon which this conference must decide. It is easy to understand why acceptance of those changes would in one respect appear attractive to some countries expecting to receive Agency assistance. The effect of the changes would be to reduce the burden of the safeguards and to leave a greater degree of control of the materials involved in Agency-assisted projects in the hands of the individual countries concerned. To the extent that this can be achieved without destroying the efficacy of the Agency's control system we sympathize entirely with the purpose of the amendments. We do not believe, however, that the particular changes proposed could in fact be adopted without leaving gaps in the control system so great as to destroy its real value in providing assurance against diversion to military use. We believe that the Agency must have in this statute the powers necessary to ensure beyond all reasonable doubt that such diversion will not take place - the extent to which these powers will be exercised to be determined by the Board of Governors when it is in process of concluding individual agreements covering the provision of assistance. In our opinion the various amendments proposed to the Article, while laudably designed to render it more acceptable from the point of view of countries thinking in terms of the effect of Agency controls upon their national projects, would in one way or another defeat that essential purpose; my Delegation is therefore unable to accept them.

I have spoken at some length on the problem of controls because of the importance attached to it by my Government and because of the concern of the Canadian delegation to ensure that the position of Canada, as a probable leading supplier of source materials, is clearly understood by those attending this Conference. We believe that the adoption of an effective control system is essential if the Agency is to command the confidence of its membership as a whole and in particular of those countries in a position to make assistance available through it. The establishment of such confidence will, we are sure, inspire generous and lasting support and thus permit the Agency to assist most effectively in the rapid application of atomic energy to the economic and social purposes of countries throughout the world.

