

15. Letter dated 12 March 1993 from the Permanent Representative of the Democratic People's Republic of Korea to the United Nations addressed to the President of the Security Council

Letter dated 19 March 1993 from the Secretary-General addressed to the President of the Security Council

Note by the Secretary-General

INITIAL PROCEEDINGS

Following consultations held on 8 April 1993, the President made the following statement to the media¹ on behalf of the members of the Council:

Decision of 8 April 1993: statement by the President, on behalf of the members of the Council:

“The members of the Council take note of the oral statement made on 6 April 1993 and the written report of International Atomic Energy Agency Director-General Dr. Hans Blix. They also take note of the letter dated 12 March 1993 of the Permanent Representative of the Democratic People's Republic of Korea to the President of the Security Council, enclosing one from his Foreign Minister with reference to Article X of the Treaty on the Non-Proliferation of Nuclear Weapons.

“The members of the Council are concerned at the situation which has arisen. In this connection they reaffirm the importance of the Treaty and of the parties to it adhering to it.

“The members of the Council also express their support for the Joint Declaration on the Denuclearisation of the Korean Peninsula made by the Democratic People's Republic of Korea and the Republic of Korea.

“The members of the Council welcome all efforts aimed at resolving this situation and in particular encourage the Agency to continue its consultations with the Democratic People's

¹ S/25562. See *Resolutions and Decisions of the Security Council 1993*, p. 116.

Republic of Korea and its constructive endeavours for a proper settlement of the nuclear verification issue in the Democratic People's Republic of Korea.

“The members of the Council will continue to follow the situation”.

Decision of 11 May 1993 (3212th meeting): resolution 825 (1993)

By a letter² dated 12 March 1993 addressed to the President of the Council, the representative of the Democratic People's Republic of Korea (DPRK) transmitted a letter of the same date from the Minister for Foreign Affairs of the DPRK. In his letter, the Minister for Foreign Affairs informed the Council that the Government of the DPRK had decided, on 12 March 1993, to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), in accordance with paragraph 1 of Article X of the NPT, in connection with the extraordinary situation prevailing in the DPRK, which jeopardized its supreme interests. He stated that the United States, together with South Korea, had resumed the “Team Spirit” joint military exercises, a nuclear war rehearsal, threatening the DPRK. Furthermore, they had instigated some officials of the International Atomic Energy Agency (IAEA) Secretariat and certain Member States to adopt an unjust resolution, at the meeting of the IAEA Board of Governors on 25 February 1993. That resolution, he noted, demanded that the DPRK open those military sites having no relevance at all to its nuclear activities, in violation of the IAEA Statute, the Safeguards Agreement and the agreement the IAEA had reached with the DPRK. He affirmed that to tolerate such an act would only set a precedent for helping to legitimize both the nuclear threats against the non-nuclear-weapon State parties, and interference in their internal affairs. The Minister hoped that the Council would take note of the decision of the Government of the DPRK to withdraw from the NPT until the United States nuclear threats and the unjust conduct of the IAEA against the DPRK would be recognised to have been removed.

By a letter³ dated 19 March 1993 addressed to the President of the Security Council, the Secretary-General transmitted to the Council a communication conveyed to him by the Director-General of the IAEA concerning the implementation of the

² S/25405.

Safeguards Agreement between the DPRK and the Agency. The communication included a resolution adopted by the IAEA Board on 18 March 1993 and a report by the Director General of IAEA submitted pursuant to a resolution adopted by the Board on 25 February 1993 which, *inter alia*, called upon the Government of the DPRK to extend full cooperation to the IAEA to enable it to fully discharge its responsibilities under the Safeguards Agreement and to respond positively without delay to the Director-General's request of 9 February 1993 for access to additional information and two additional sites.

The Director-General of the IAEA reported that, on 26 February 1993, he had forwarded the text of the resolution to the DPRK and requested that an inspection team be received. On 10 March, the DPRK informed the Director-General that it reserved its consideration of the receipt of the inspection team, referring to the resumption of the joint military exercise “ Team Spirit “ by the United States and the Republic of Korea and the “state of semi-war” ordered by the Supreme Commander of the DPRK from 9 March. The Director General had replied on the same day, advising that the “state of semi-war” could not impede the implementation of the Safeguards Agreement.

The Director-General further reported that he had received a copy of a 12 March statement by the Government of DPRK declaring its decision to withdraw from the NTP and indicating that that stand would remain unchanged until the United States stopped its nuclear threats against the DPRK and the IAEA Secretariat returned to the principle of independence and impartiality. He had written subsequently to the DPRK informing it that the Treaty and the Safeguards Agreement remained duly in force until any withdrawal took effect, i.e. after 3 months advance notice to all other Parties and to the United Nations Security Council. It followed that a declaration of intention to withdraw from the NPT should not impede the implementation of the Safeguards Agreement. In its reply on 16 March, the DPRK stated that because some officials of the IAEA Secretariat had departed from the objectivity and impartiality

³ S/25445.

and joined in a plot by a party in hostilities towards the DPRK, it could not receive the Agency inspection team. The resolution adopted by the Board on 18 March 1993, requested the Director-General, *inter alia*, to continue his efforts and dialogue and to report further on the response of the DPRK to the resolution of 25 February, on 31 March 1993.

By a note⁴ dated 12 April 1993, the Secretary-General transmitted to the members of the Security Council a letter dated 6 April 1993 from the Director-General of the IAEA transmitting his report on behalf of the Board of Governors to the Security Council and the General Assembly concerning non-compliance of the DPRK with the Safeguards Agreement and on the Agency's inability to verify the non-diversion of material required to be safeguarded, pursuant to a resolution adopted by the Board of Governors of the IAEA on 1 April 1993. In that resolution, the Board found, based on the report of the Director-General, that the DPRK was in non-compliance with its obligations under its Safeguards Agreement with the Agency, and that the Agency was not able to verify that there had been no diversion of nuclear material required to be safeguarded under the terms of the Safeguards Agreement, to nuclear weapons or other nuclear explosive devices and decided, as required by Article XII.C of the Statute and in accordance with Article 19 of the Safeguards Agreement, to report the findings to the Security Council and the General Assembly of the United Nations.

At its 3212th meeting, on 11 May 1993, the Council included in its agenda the letter dated 12 March 1993 from the representative of the DPRK addressed to the President of the Council, the letter dated 19 March 1993 from the Secretary-General addressed to the President of the Council, and the note by the Secretary-General.

The Council invited the representatives of the DPRK and the Republic of Korea, at their request, to participate in the discussion, without the right to vote. The President (Russian Federation) then drew the attention of the members of the Council

⁴ S/25556.

to the text of a draft resolution⁵ submitted by France, Hungary, Japan, New Zealand, the Russian Federation, Spain, the United Kingdom and the United States. He also drew their attention to several other documents.⁶

The representative of the DPRK, referring to his letter⁷ of 10 May 1993, in which he had officially requested the Security Council to consider at this meeting issues related to the abuse by the IAEA of the Safeguards Agreement between the DPRK and the IAEA, expressed the hope that his request would be considered a formal agenda item, in accordance with the relevant provisions of the Charter and the provisional rules of procedure of the Council. Recalling the statement⁸ of his Government issued on 12 March 1993, he pointed out that the major reason which had forced his country to withdraw from the NPT was the fact that the United States kept increasing nuclear threats against it and manipulated some officials at the IAEA Secretariat to open its military bases and disarm it. Firstly, the United States had escalated its nuclear threat against the DPRK while maintaining its nuclear weapons deployed in South Korea, contrary to the fact that the DPRK joined the NPT and since then had fulfilled its obligations under the Treaty in good faith. Such threat constituted a flagrant violation of the NPT as well as of Security Council resolution 255 (1968) of 19 June 1968.⁹ Secondly, the United States and its followers fabricated the “inconsistencies in principle” between the DPRK’s declarations and the IAEA’s findings. Thirdly, some officials of the IAEA Secretariat deviated from the function of officials of the international organization and became servants of the United States by turning over to them the information on the inspection results, in contravention of

⁵ S/25745.

⁶ Letter dated 9 April 1993 from the Permanent Representative of the Democratic People's Republic of Korea addressed to the President of the Security Council (S/25576); letter dated 12 April 1993 from the Permanent Representative of Bulgaria addressed to the Secretary-General (S/25581); letter dated 13 April 1993 from the Chargé d’Affaires, a.i. of the Permanent Mission of Turkey addressed to the Secretary-General (S/25593); letter dated 15 April 1993 from the Permanent Representative of the Democratic People's Republic of Korea addressed to the President of the Security Council (S/25595); letter dated 4 May 1993 from the Permanent Representative of Paraguay addressed to the Secretary-General (S/25734); letter dated 10 May 1993 from the Permanent Representative of the Democratic People's Republic of Korea addressed to the President of the Security Council (S/25747).

⁷ See *supra*, S/25747.

⁸ See *supra*, S/25407, annex.

the IAEA statute. Fourthly, the DPRK's refusal to allow the Agency's unlawful inspection of the "suspicious locations" was nothing but a sovereign State's full exercise of a fair right, which could never be considered non-compliance with the Safeguards Agreement. Fifthly, since there was no legal or technical ground to discuss the DPRK's "non-compliance" with the Safeguards Agreement or the DPRK's withdrawal from the NPT, the Security Council should instead discuss without fail the acts of the United States and of some officials of the IAEA.

The representative also stated that the DPRK's withdrawal from the NPT and the problems in implementing the Safeguards Agreement could not be construed as harming world peace, nor threatening the security of other countries. No legal or technical grounds could be found to discuss the so-called "nuclear problem" at the Security Council. Signing, accession to, termination of and withdrawal from the treaty were legal actions within the sovereign rights of an independent State and no one was entitled to interfere in these. Moreover, the DPRK'S withdrawal from the NPT was a self-defence measure based on a State's right to withdraw from the Treaty in the exercise of its national sovereignty, in case a State party to the Treaty decides that its supreme interests are threatened.

Turning to the draft resolution, he stated that it was aimed at infringing upon the sovereignty of the DPRK, ignoring the requirements of Article 33 of Chapter VI of the UN Charter, the statute of the IAEA and the norms of international law that disputes should be resolved through dialogue and negotiations. The draft resolution should be rejected, since it was unreasonable and in contravention of Article 2(4) of the Charter and Article 3(d) of the IAEA Statute, which called for respect of the sovereignty of the Member States. Its adoption would compel the DPRK to take corresponding measures in self-defence. Concluding that the issue could not be solved without comprehensively resolving the nuclear problem of the Korean peninsula, he called upon the United States to withdraw the resolution.¹⁰

⁹ See resolution 255 (1968) of 19 June 1968, adopted at the 1433rd meeting by 10 votes to none, with 5 abstentions (Algeria, Brazil, France, India, Pakistan).

¹⁰ S/PV.3212, pp.7- 25.

The representative of the Republic of Korea stated that the IAEA had referred the matter to the Security Council after having exhausted all means available to it under its Statute to resolve the issue. He stated that the DPRK's characterization of the two sites as military sites did not make them immune from inspection. It was the right of the IAEA under the Agreement with the DPRK to inspect locations which it had bona fide reason to believe were nuclear-related, regardless of whether they were military or not. With regard to the claim made by DPRK that the "Team Spirit" Exercise was a nuclear rehearsal, the speaker reiterated that the exercise was purely defensive in nature and involved conventional weapons only. Finally, the DPRK's allegation that some officials of the IAEA Secretariat were partial and were influenced by an unfriendly party was completely unfounded. He pointed out in that regard that the IAEA Board of Governors had reaffirmed its full confidence in the Secretariat in its resolution of 18 March 1993.

The speaker further stated that by refusing IAEA inspections of suspected nuclear sites and deciding to pull out of the NPT, the DPRK posed a serious threat to international peace and security, in particular the security and stability of North East Asia and was a blow to past achievements in easing tension on the Korean peninsula, such as the Joint Declaration on the Denuclearisation of the Korean Peninsula. It also constituted a threat to the NPT regime and the IAEA safeguards system. Although it was true that every party had the right to withdraw from the Treaty, it stipulated that this right be exercised only when extraordinary events jeopardized supreme national interest.

Recalling the presidential statement¹¹ adopted at the Security Council summit meeting of 31 January 1992 which provided, *inter alia*, that the members of the Council would take appropriate measures in the case of any violations notified to them by the IAEA, the speaker believed that the primary obligation to stop nuclear weapons development by the DPRK rested with the international community as a whole and

¹¹ See S/23500.

particularly on the Security Council, which was entrusted with the maintenance of international peace and security under the Charter¹².

The representative of the United States stated that the issue under discussion by the Council was the DPRK's failure to adhere to its obligations under a Safeguards Agreement with the IAEA and its subsequent announcement that it intended to withdraw from the NPT. She emphasized that these disputes concerned international agencies and the international community, not just a single country. Addressing the charges made against the United States by the DPRK, she stated that the United States, like other nations, provided information and technical support to the IAEA at the Agency's request to support the implementation of safeguards on nuclear materials and facilities. The IAEA had come to its own conclusions about whether countries were complying with safeguards requirements, drawing primarily from information obtained by its own inspectors but taking into account information provided by member Governments. She denied that the United States posed a nuclear threat to the DPRK, indicating that the "Team Spirit" joint military manoeuvres were a purely defensive conventional exercise.¹³

The representative of China, speaking in explanation of vote, expressed the view that the issue concerning the DPRK was mainly a matter between the DPRK and the IAEA, between the DPRK and the United States, and between the DPRK and the Republic of Korea. It should therefore be settled properly through direct dialogue and consultation between the DPRK and the three other parties concerned, respectively. China was not in favour of having this issue handled by the Security Council, let alone having a resolution adopted on this issue by the Council. This would only complicate the situation rather than contribute to its appropriate settlement. China would therefore abstain on the draft resolution.¹⁴

¹² S/PV.3212, pp. 26-33

¹³ S/PV.3212; pp. 33-35.

¹⁴ Ibid; pp. 42-43

The draft resolution was then put to the vote and adopted by 13 votes to none, with 2 abstentions,¹⁵ as resolution 825 (1993) which reads as follows:

The Security Council,

Having considered with concern the letter dated 12 March 1993 from the Minister of Foreign Affairs of the Democratic People's Republic of Korea dated 12 March 1993 addressed to the President of the Security Council concerning the intention of the Government of the Democratic People's Republic of Korea to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons and the report of the Director-General of the International Atomic Energy Agency,

Recalling the statement made by the President of the Council on 8 April 1993 in which the members of the Council welcome all efforts aimed at resolving this situation and, in particular, encourage the Agency to continue its consultations with the Democratic People's Republic of Korea for proper settlement of the nuclear verification issue in the Democratic People's Republic of Korea,

Noting in that context the critical importance of the Treaty, and emphasizing the integral role of Agency safeguards in the implementation of the Treaty and in ensuring the peaceful uses of nuclear energy, and reaffirming the crucial contribution which progress in non-proliferation can make to the maintenance of international peace and security,

Recalling the Joint Declaration on the Denuclearisation of the Korean Peninsula by the Democratic People's Republic of Korea and the Republic of Korea, which includes establishment of a credible and effective bilateral inspection regime and a pledge not to possess nuclear reprocessing and uranium enrichment facilities,

Noting that the Democratic People's Republic of Korea is party to the Treaty and has concluded a full-scope safeguards agreement as required by that Treaty,

Having also considered with regret the Agency's Board of Governors' findings contained in its resolution GOV/2645 of 1 April 1993 that the Democratic People's Republic of Korea is in non-compliance with its obligations under the safeguards agreement that it concluded with the Agency, and that the Agency is not able to verify

¹⁵ For the vote, see PV. 3212, p.44; see also chap. IV of the present *Supplement*.

that there has been no diversion of nuclear materials required to be safeguarded under the terms of the safeguards agreement on nuclear weapons and other nuclear explosive devices between the Agency and the Democratic People's Republic of Korea,

Taking note of the statement made on 1 April 1993 by the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America, the depositaries of the Treaty, which questions whether the Democratic People's Republic of Korea's stated reasons for withdrawing from the Treaty constitute extraordinary events relating to the subject-matter of the Treaty,

Taking note also of the letter of reply to the Director-General of the Agency from the Democratic People's Republic of Korea dated 22 April 1993 which, inter alia, encourages and urges the Director-General to hold consultations with the Democratic People's Republic of Korea on the implementation of the safeguards agreement, and noting also that the Democratic People's Republic of Korea has expressed its willingness to seek a negotiated solution to this issue,

Welcoming recent signs of improved cooperation between the Democratic People's Republic of Korea and the Agency and the prospect of contacts between the Democratic People's Republic of Korea and other Member States,

1. *Calls upon* the Democratic People's Republic of Korea to reconsider the announcement contained in the letter dated 12 March 1993 and thus to reaffirm its commitment to the Treaty on the Non-Proliferation of Nuclear Weapons;

2. *Also calls upon* the Democratic People's Republic of Korea to honour its non-proliferation obligations under the Treaty and comply with its safeguards agreement with the Agency as specified by the Agency's Board of Governors' resolution GOV/2636 of 25 February 1993;

3. *Requests* the Director-General of the Agency to continue to consult with the Democratic People's Republic of Korea with a view to resolving the issues which are the subject of the Board of Governors' findings and to report to the Security Council on his efforts in due time;

4. *Urges* all Member States to encourage the Democratic People's Republic of Korea to respond positively to the present resolution, and encourages them to facilitate a solution;

5. *Decides* to remain seized of the matter and to consider further action if necessary.

After the vote, the representative of France said that the current situation made it necessary for the Council to manifest, clearly and unambiguously, its determination to see the emergence of an early settlement. The resolution attested to its resolve to settle a disturbing situation which represented an important disagreement between the DPRK and the whole of the international community and was not a simple bilateral crisis. The text of the resolution was, however, not intended to be threatening and also took into account the prospects for opening up bilateral dialogue in parallel to the multilateral framework. The speaker concluded by saying that the passing of the 12 June deadline, when the DPRK withdrawal from the NPT would become effective, would not exonerate the DPRK and would prompt the Council, as provided in the resolution, to draw all the appropriate conclusions.¹⁶

The representative of the United Kingdom stated that his delegation did not question the right of States to withdraw from treaties if such withdrawal was in accordance with the provisions of the treaty concerned. Article 10, paragraph 1, of the NPT required that in exercising its national sovereignty a party withdrawing from the Treaty shall give notice of such withdrawal to all other parties to the Treaty and to the Security Council three months in advance, and that such notice shall include a statement of the extraordinary events, related to the subject matter of the Treaty, which it regarded as having jeopardized its supreme interests. In this connection, he recalled the joint statement¹⁷ issued on 1 April 1993 by the three co-depositaries of the NPT – the Russian Federation, the United States and the United Kingdom - in which they questioned whether the DPRK's stated reasons for withdrawal in fact constituted extraordinary events related to the subject matter of the Treaty. He also noted that the DPRK remained bound by its obligation under its safeguards agreement. In his

¹⁶ S/PV.3212, pp. 47-48.

¹⁷ See *supra*, S/25516, annex.

Government's view, it was absolutely essential that this issue be treated multilaterally as well as bilaterally. While accepting that there was an important role for bilateral contacts, he maintained that the issue under consideration was about multilateral disciplines maintained by multilateral organizations such as the IAEA. It was therefore absolutely right and proper that the Security Council should play its role in handling that aspect and remain seized of the matter since further action could be considered¹⁸

The representative of Pakistan expressed the view that the problem between the DPRK and the IAEA had been referred to the Security Council in a rather precipitate manner. His delegation had therefore abstained in the vote on the IAEA Board of Governors' resolution of 1 April 1993, but had endorsed the Council's statement of 8 April 1993 which encouraged a resumption of consultations between the two parties. His delegation had also abstained in the vote on the resolution before the Council, having difficulties with the seventh preambular paragraph and operative paragraph 1. In his delegation's view, the seventh preambular paragraph was inconsistent with the letter and spirit of Article X of the NTP, particularly when read in conjunction with operative paragraph 1 of the resolution. Article X of the NTP recognised the right of a State Party to withdraw from the Treaty if it decided that extraordinary events related to the subject matter had jeopardized its supreme interests. That decision had been left entirely to the State Party concerned.¹⁹

¹⁸ S/PV.3212, pp.53-55

¹⁹ *Ibid*; pp. 62-64.