

## II. Syria and nuclear proliferation concerns

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In 2011 Syria came under renewed international scrutiny by refusing to dispel suspicions that it had carried out work on a suspected undeclared nuclear facility. The suspicions centred on a facility located at al-Kibar, a remote site in Deir Ez-Zor governorate in eastern Syria. The site was destroyed by an Israeli air strike in September 2007. The Israeli and US governments alleged that Syria had been secretly constructing, with technical assistance from North Korea, a nuclear reactor similar to the reactor that North Korea used to produce plutonium for nuclear explosive devices. The Syrian Government has stated that the building was a disused military facility that had no connection to nuclear activities, and that it had no nuclear cooperation with North Korea.<sup>1</sup>

On 25 February 2011 the Director General of the International Atomic Energy Agency (IAEA), Yukiya Amano, reported to the IAEA Board of Governors that Syria's lack of cooperation since June 2008 in providing access and requested information meant that the agency was unable to confirm Syria's statements about the non-nuclear nature of the Deir Ez-Zor site.<sup>2</sup> Among other failures, Syria had declined to provide information about its procurement of material and equipment that the IAEA believed could be used for building a reactor. Syria had also continued to deny inspectors access to three other locations inside the country that were suspected of being 'functionally related' to the activities at Deir Ez-Zor.<sup>3</sup>

In a subsequent report to the board, issued on 24 May 2011, Amano stated that the IAEA had assessed that the building destroyed at the Deir Ez-Zor site was 'very likely a nuclear reactor and should have been declared by Syria' under its comprehensive safeguards agreement with the agency.<sup>4</sup> The report outlined the evidence that had led inspectors to conclude that Syria had been building a covert nuclear reactor. It noted that the dimensions of the destroyed building were similar to the dimensions of the plutonium

<sup>1</sup> For more on the controversy over the alleged undeclared nuclear reactor in Syria see Kile, S. N., 'Nuclear arms control and non-proliferation', *SIPRI Yearbook 2009*, pp. 402–405.

<sup>2</sup> IAEA, Board of Governors, 'Implementation of the NPT safeguards agreement in the Syrian Arab Republic', Report by the Director General, GOV/2011/8, 25 Feb. 2011, p. 3.

<sup>3</sup> IAEA, GOV/2011/8 (note 2), p. 2.

<sup>4</sup> IAEA, Board of Governors, 'Implementation of the NPT safeguards agreement in the Syrian Arab Republic', Report by the Director General, GOV/2011/30, 24 May 2011, p. 8. A comprehensive safeguards agreement (CSA) between a non-nuclear weapon state and the IAEA places safeguards on all peaceful nuclear activities and all nuclear material on the territory of the state in order to verify that they are not misused for military purposes. Such agreements provide the legal basis for the IAEA's system of nuclear material accountancy, which is designed to verify that a state's declarations of nuclear material subject to safeguards are correct. The 1968 Non-Proliferation Treaty obliges all non-nuclear weapon states parties to conclude a CSA with the IAEA. For a list of states that have safeguards agreements in force with the IAEA see annex A in this volume.

production reactor at Yongbyon, North Korea. The report also stated that imagery of the building after the bombing showed features ‘corresponding’ to a containment structure, heat exchangers and a spent fuel pond, among other things, which were characteristic of that type of reactor. In addition, there had been suspected concealment activity at the site after the bombing, including Syrian efforts ‘to recover equipment and material from the destroyed building prior to its complete demolition and burial’.<sup>5</sup>

On 9 June 2011 the IAEA Board of Governors adopted a resolution stating that Syria’s failure to declare the construction of a nuclear reactor at Deir Ez-Zor constituted ‘non-compliance with its obligations under its Safeguards Agreement with the Agency’.<sup>6</sup> It called on Syria to give the IAEA access to all information, sites, material and persons necessary for the agency to resolve the outstanding safeguards compliance questions and urged Syria to bring into force and implement an additional protocol to its comprehensive safeguards agreement.<sup>7</sup> The resolution instructed the Director General, pursuant to the IAEA Statute, to report Syria’s non-compliance to the UN Security Council for its consideration and possible action.<sup>8</sup>

The resolution was approved by a deeply divided Board of Governors, with fewer than half of the 35 member states voting in favour; 6 states—including China and Russia—voted against and 11 others abstained.<sup>9</sup> One authoritative observer suggested that the use of the phrase ‘maintenance of international peace and security’ in the resolution’s preamble—reminiscent of Chapter VII of the UN Charter, which authorizes the Security Council to use non-military and military means ‘to maintain or restore international peace and security’—had been problematic for a number of board members.<sup>10</sup> In addition, officials from some abstaining countries indicated that the IAEA’s assessment that the Deir Ez-Zor facility was ‘very likely’ to be a reactor was not sufficiently convincing to warrant referral to the Security Council.<sup>11</sup>

<sup>5</sup> IAEA, GOV/2011/30 (note 4), p. 4. On another compliance question, the report noted that the particles of anthropogenic (man-made) uranium found at the miniature neutron source reactor (MNSR) facility near Damascus would be further considered by the agency as a routine safeguards issue.

<sup>6</sup> IAEA, Board of Governors, ‘Implementation of the NPT safeguards in the Syrian Arab Republic’, Resolution, GOV/2011/41, 9 June 2011, p. 2.

<sup>7</sup> An additional protocol to a safeguards agreement (see note 4) is designed to enhance the IAEA’s capability to detect and deter undeclared nuclear material or activities. It requires a state party to give the IAEA information on all aspects of its nuclear fuel cycle-related activities and provides the IAEA with new or expanded investigatory powers.

<sup>8</sup> IAEA, GOV/2011/41 (note 6), p. 2.

<sup>9</sup> Crail, P., ‘IAEA sends Syria case to UN’, *Arms Control Today*, vol. 41, no. 5 (July/Aug. 2011). One country was absent from the vote.

<sup>10</sup> Hibbs, M., ‘A bridge too far? Syria & GOV/40’, *Arms Control Wonk*, 11 June 2011, <<http://hibbs.armscontrolwonk.com/archive/192/>>.

<sup>11</sup> Crail (note 9).

In the wake of the vote, Western diplomats acknowledged that the UN Security Council was unlikely to censure Syria for its non-compliance or impose sanctions against the country in light of opposition from China, Russia and some countries of the Non-Aligned Movement (NAM). Russian officials said that Russia had opposed referring Syria to the Security Council because its destroyed nuclear programme no longer posed a threat to international peace and security.<sup>12</sup> There was also little prospect that Amano would call for the agency to carry out a special inspection in Syria, as had earlier been advocated by some non-governmental experts, in light of the lack of strong political support on the board for doing so.<sup>13</sup>

The approval of the board resolution had no immediate effect on the stalemate between the IAEA and Syria over the unresolved safeguards compliance questions. On 17 November 2011 Amano reported that the agency had made no progress in obtaining requested information from Syria.<sup>14</sup> The board subsequently decided to defer discussion of the issue because of the intensifying civil unrest inside Syria.<sup>15</sup>

The Syrian case highlighted the growing difficulty experienced by the IAEA Board of Governors over the past decade in reaching a consensus among the members. The board's decision making has increasingly pitted the Western industrial countries against the NAM countries; the latter have become more proactive in asserting the right of non-nuclear weapon states parties to the 1968 Non-Proliferation Treaty to pursue nuclear programmes for peaceful purposes.<sup>16</sup> At the same time, some observers hailed the board's referral of Syria to the Security Council as having set an important precedent. It demonstrated that a country could not prevent the IAEA from drawing informed conclusions about its nuclear activities simply by refusing to cooperate. This in turn had important implications for the agency's handling of the Iran case (see section III below).<sup>17</sup>

<sup>12</sup> Charbonneau, L., 'Q & A: what will U.N. council do on Syria's nuclear program?', Reuters, 9 June 2011, <<http://uk.reuters.com/article/2011/06/09/uk-syria-nuclear-un-idUKTRE75863820110609>>.

<sup>13</sup> See Acton, J. M., Fitzpatrick, M., and Goldschmidt, P., 'The IAEA should call for a special inspection in Syria', Proliferation Analysis, Carnegie Endowment for International Peace, 26 Feb. 2009, <<http://carnegieendowment.org/2009/02/26/iaea-should-call-for-special-inspection-in-syria/4x2>>.

<sup>14</sup> IAEA, Board of Governors, 'Introductory Statement to the Board of Governors by IAEA Director General Yukiya Amano', 17 Nov. 2011, <<http://www.iaea.org/newscenter/statements/2011/amp2011n030.html>>.

<sup>15</sup> On the conflict in Syria in 2011 see chapter 2, section I, and chapter 3, section II, in this volume.

<sup>16</sup> Hibbs, M., 'Reaching consensus at the IAEA', Q&A, Carnegie Endowment for International Peace, 13 Sep. 2010, <<http://carnegieendowment.org/2010/09/13/reaching-consensus-at-iaea/58p>>.

<sup>17</sup> Mark Fitzpatrick, former US Deputy Assistant Secretary of State for Non-Proliferation, in Borger, J., 'Syria referred to UN security council over suspected nuclear programme', *The Guardian*, 9 June 2011.