

Título: The NSG decision on sensitive nuclear transfers: ABACC and the Additional Protocol

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Texto completo:

On a windy day in June 2011, near the shores of the Dutch village of Noordwijk, representatives of the 46 countries that make up the Nuclear Suppliers Group (NSG) agreed on a much-discussed revision of the section of the group's guidelines covering exports relating to uranium enrichment and spent fuel reprocessing.

The agreement was a vivid example of NSG efforts to promote nonproliferation without unduly restricting nuclear commerce. Coming after seven years of intensive internal debate, the accord illustrated the difficulty of gaining the support of all members of (the group, which operates by consensus.

Because of ongoing discussion in the media and nongovernmental organizations (NGOs) and to avoid any possible misunderstandings in the discussions leading up to 2015 Nuclear Nonproliferation Treaty (NPT) Review Conference, it is timely to review the background and basis for the NSG decision.

The NSG guidelines were designed to apply a higher standard to controls on transfers of enrichment and reprocessing equipment, material, and technology than to other nuclear exports. Paragraph 6 of the guidelines stated simply that suppliers should "exercise restraint" on enrichment- and reprocessing-related exports, which are particularly sensitive because of their potential use in producing material that can be used in nuclear weapons. The revised guidelines spell out more specifically what the elements of that restraint should be, key challenge for the NSG had been to find appropriate language to capture what had been the practice of suppliers in a way that non-NSG governments and the general public could understand.

Since the Noordwijk decision, most of the discussion of the NSG's action has centered on a specific reference to the requirement for safeguards in Paragraph 6(c):

suppliers should authorise transfers, pursuant to this paragraph, only when the recipient has brought into force a Comprehensive Safeguards Agreement, and an Additional Protocol based on the Model Additional Protocol or, pending this, is implementing appropriate safeguards agreements in cooperation with the IAEA 'International Atomic Energy Agency', including a regional accounting and control arrangement for nuclear materials, as approved by the IAEA Board of Governors.

This language expresses the NSG's agreement that the increased proliferation risk associated with these technologies warranted greater mitigation efforts. The group also looked to the IAEA effort to increase the standard of safeguards through the introduction of the Model Additional Protocol and concluded that it would be appropriate to consider implementation of a protocol as a condition of supply. Since the 1990s, it has been generally recognized that the IAEA's comprehensive safeguards agreement--the agreement that applies to nonnuclear-weapon states under the NPT--does not adequately cover the detection of undeclared nuclear activities. The Model Additional Protocol addresses this by extending the access available for inspectors and the information to be provided to the IAEA.

[ILLUSTRATION OMITTED]

Under the Noordwijk language, the safeguards standard for enrichment-and reprocessing-related transfers goes above and beyond the requirements previously enumerated in the guidelines and allows for flexibility in its application. Although the NSG text makes explicit reference to a comprehensive safeguards agreement and an additional protocol, it also allows for the concern for higher risk mitigation to be addressed by a regional accounting and control arrangement that has been approved by the IAEA, pending the ultimate implementation of an additional protocol.

The new language sparked a debate, particularly in the press and among NGOs, over whether a regional arrangement such as the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials (ABACC) is equivalent to a comprehensive safeguards agreement with an additional protocol. As this article will demonstrate, the new language does not say that and was not intended to do so. By considering the legal and safeguards aspects of the ABACC arrangements and an additional protocol, the article will demonstrate that the two measures are meant for different purposes but that they both provide a higher level of confidence than a comprehensive safeguards agreement alone that exported enrichment and reprocessing technologies will be used only for peaceful purposes. The article therefore concludes that both meet the nonproliferation requirements of the revised NSG guidelines.

Legal Considerations

JONAS, David S.; CARLSON, John; GOOREVICH, Richard S. The NSG decision on sensitive nuclear transfers: ABACC and the Additional Protocol. *Arms Control Today*, Washington, nov. 2012.

FULL TEXT:

https://www.armscontrol.org/act/2012_11/The-NSG-Decision-on-Sensitive-Nuclear-Transfers-ABACC-and-the-Additional-Protocol

“The two countries, however, work together under a strict model of safeguards inspections and other measures organized by ABACC. On December 13, 1991, Argentina, Brazil, ABACC, and the IAEA signed an agreement known as the Quadripartite Agreement, which consolidates the system for the application of the safeguards that are in force in both countries, providing for joint inspections by the IAEA and ABACC, involving personnel from both countries.” (p. 2)