

Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Compliance and verification

Working paper submitted by Australia, Austria, Canada, Denmark, Finland, Hungary, Ireland, the Netherlands, New Zealand, Norway and Sweden (the Vienna Group of Ten)

Key points

- The Treaty on the Non-Proliferation of Nuclear Weapons and its universalization are of the utmost importance, and we encourage those remaining States that have not yet acceded to the Treaty to do so as soon as possible.
- Comprehensive safeguards agreements are essential for verifying the non-diversion of declared nuclear material, but are not sufficient for the Agency to provide credible assurances regarding the absence of undeclared nuclear material and activities. It is necessary for a comprehensive safeguards agreement to be complemented by an additional protocol based on document INFCIRC/540 (Corrected).
- Those States parties that have not concluded comprehensive safeguards agreements or adopted the Additional Protocol should do so as soon as possible and without further delay. All States should submit all nuclear material and activities, both current and future, to International Atomic Energy Agency (IAEA) safeguards.
- All States found to be in non-compliance should move promptly to full compliance with their obligations.

Working paper on implementation of the action plan

1. The Vienna Group of Ten stresses the important contribution of the Treaty to global security and its effectiveness in preventing nuclear proliferation. Intense international concern about nuclear-weapons proliferation, including potentially to non-State actors, has added to the importance of the Treaty-based nuclear non-proliferation regime.
2. The Treaty plays a unique role in fostering the necessary framework of mutual confidence in the solely peaceful use of nuclear energy by States parties. In this



context, the Vienna Group places great importance on the universalization of the Treaty and encourages those remaining States that have not acceded to the Treaty to do so as soon as possible.

3. The Treaty confers a set of interrelated and mutually reinforcing obligations and rights on States parties. Accountability is a key element of the Treaty regime, which can be made stronger and more transparent through adherence by all States parties to the current verification standard pursuant to article III of the Treaty, in order to provide assurances of compliance with article II and to create the stable international environment necessary to allow for the full realization of article IV. The Vienna Group affirms the fundamental importance of full compliance with all the provisions of the Treaty, including with relevant safeguards agreements and subsidiary arrangements. The Group notes that the integrity of the Treaty depends upon full respect by States parties for their obligations under the Treaty and those deriving from the Treaty.

4. IAEA safeguards are a fundamental component of the nuclear non-proliferation regime, play an indispensable role in the implementation of the Treaty and help to create an environment conducive to nuclear cooperation.

5. The Vienna Group recognizes the importance of the annual safeguards conclusions drawn by IAEA with respect to the correctness and completeness of States' declarations, and urges all States to cooperate fully with IAEA in implementing safeguards agreements and in expeditiously addressing anomalies, inconsistencies and questions identified by IAEA with a view to obtaining and maintaining the required conclusions. The Group notes the importance of the full use of all tools at the Agency's disposal for the resolution of safeguards issues, including special inspections when deemed necessary.

6. The Vienna Group recalls that article III.1 of the Treaty requires each non-nuclear-weapon State party to accept safeguards on all source and special fissionable material in all peaceful nuclear activities. The Group recognizes that a State's comprehensive safeguards agreement based on document INFCIRC/153 (Corrected) embodies the obligation that the State provide the required declarations to IAEA. The Agency, as the competent authority designated under article III to apply safeguards, verifies the correctness and completeness of a State's declarations with a view to providing assurances of the non-diversion of nuclear material from declared activities and of the absence of undeclared nuclear material and activities.

7. While a comprehensive safeguards agreement is essential in providing measures for verifying the non-diversion of declared nuclear material, such measures alone are not sufficient for the Agency to provide credible assurances regarding the absence of undeclared nuclear material and activities. The Vienna Group therefore considers that it is necessary for a comprehensive safeguards agreement to be complemented by an additional protocol based on document INFCIRC/540 (Corrected).

8. The Vienna Group fully endorses the measures contained in the Model Additional Protocol, noting that the implementation of an additional protocol provides increased confidence about a State's compliance with article II of the Treaty. In this regard, the Group recognizes the Additional Protocol as an integral part of the IAEA safeguards system and affirms that a comprehensive safeguards

agreement, together with an additional protocol, represents the current verification standard pursuant to article III.1 of the Treaty.

9. The 2010 Review Conference of the Parties to the Treaty reaffirmed that IAEA is the competent authority responsible for verifying and assuring, in accordance with the statute of IAEA and the IAEA safeguards system, compliance by States parties with their safeguards agreements undertaken in fulfilment of their obligations under article III, paragraph 1, of the Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices.

10. The Vienna Group reaffirms the statutory role of the Board of Governors and the Director General of IAEA in relation to States' compliance with safeguards agreements, and underscores the importance of the Agency's access to the Security Council and other relevant organs of the United Nations, particularly although not exclusively in cases of non-compliance. In this context, the Group recalls Security Council resolution 1887 (2009), in which the Council reaffirmed that the proliferation of nuclear weapons constitutes a threat to international peace and security. The Group encourages the Security Council to continue to regularly invite the IAEA Director General to brief the Council on the status of safeguards and other relevant verification processes. The Group underscores the mandate of the Security Council, in accordance with the Charter of the United Nations, to ensure and uphold compliance with the Treaty, and to take appropriate measures in cases of non-compliance with the Treaty and with safeguards agreements when notified by IAEA of non-compliance. In this regard, the Group recalls Security Council resolutions 1540 (2004), 1673 (2006), 1810 (2008), 1977 (2011) and 2055 (2012).

11. Meeting current and potential compliance challenges is a key task for the Treaty's strengthened review process. These challenges pose a significant test for the Treaty and need to be met firmly by upholding the Treaty's integrity and reinforcing the authority of the safeguards system of IAEA.

12. The Vienna Group reaffirms its conviction that the universal application of comprehensive safeguards agreements and additional protocols provides assurance that States are complying with their non-proliferation undertakings, and the mechanism for States to demonstrate this compliance. In this regard, the Group notes that the vast majority of States parties are in compliance with their Treaty obligations.

13. The Vienna Group notes that any State party that does not comply with its obligations under the Treaty isolates itself through its own actions from the benefits of constructive international relationships, and from the benefits accruing from adherence to the Treaty, including, inter alia, from cooperation in the peaceful uses of nuclear energy, until it enters into full compliance. The Group calls on those States that are currently non-compliant — Iran, Syria and the Democratic People's Republic of Korea — to move promptly to full compliance with their obligations.

14. The Vienna Group notes that since the 2010 Review Conference, five further comprehensive safeguards agreements pursuant to the Treaty have been brought into force, but expresses its deep concern that 13 States have yet to fulfil their respective obligations under the Treaty. The Group therefore urges those States parties that have not yet done so to conclude and implement such agreements without further delay. In addition, the Group calls on all States to submit all nuclear material and activities, both current and future, to IAEA safeguards.

15. The Vienna Group recognizes the need for IAEA to further facilitate and assist States in the conclusion and entry into force of safeguards agreements and additional protocols. In this regard, the Group welcomes the efforts of the IAEA secretariat and a number of IAEA member States to implement a plan of action to encourage wider adherence to the safeguards system, including the promotion of universal adherence to the Additional Protocol, and the organization of regional seminars. The comprehensive safeguards agreement and the Additional Protocol together allow for the application of integrated safeguards. States that have brought into force an additional protocol fully benefit from the increased efficiency under integrated safeguards as IAEA is able to draw a broader safeguards conclusion.

16. The Vienna Group notes that 139 States have signed additional protocols and that such protocols are in force for 119 States.¹ Thus, a majority of States have accepted the verification standard. The Group urges all States parties that have not yet done so to conclude and bring into force an additional protocol as soon as possible and to implement it provisionally pending its entry into force.

17. The Vienna Group notes the conclusion, reached in June 2005 by the IAEA Board of Governors, that the small quantities protocol constituted a weakness in the safeguards system and the following decision, in 2006, to modify the standard small quantities protocol text and change the eligibility for a small quantities protocol. Since 2006, 37 small quantities protocol States have amended their protocols to adopt the new standard; 53 small quantities protocol States have yet to do so. The Group calls on all small quantities protocol States that have not already done so to take the steps necessary to adopt the revised small quantities protocol without delay. The Group urges small quantities protocol States that are planning to acquire nuclear facilities or to otherwise exceed the criteria of the revised small quantities protocol to renounce their small quantities protocols and to resume full application of comprehensive safeguards agreement provisions without delay. The Group further urges all States with small quantities protocols to bring into force an additional protocol in order to provide maximum transparency.

18. The Vienna Group recognizes the importance of an effective State and/or regional system of accounting for and control of nuclear material, as required under article 7 of a comprehensive safeguards agreement, to the effective and efficient implementation of safeguards. The Group urges all States parties to ensure that their respective State and/or regional systems of accounting for and control of nuclear material cooperate fully with the secretariat and requests the secretariat to continue to assist States with small quantities protocols, including non-members of the Agency, through available resources, in the establishment and maintenance of an effective State system.

19. The Vienna Group welcomes the important work being undertaken by IAEA in the conceptualization, implementation and development of the State-level concept, which results in a system for verification that is more comprehensive, as well as more flexible and effective, than other approaches. In this regard, the Group welcomes the efforts of IAEA to move towards a safeguards system that is more adaptable, more focused at the State level, objectives-based, and makes use of all safeguards-relevant information in a process that links State evaluation and verification activities.

¹ Current as at 1 February 2013.

20. The Vienna Group notes that in order to draw well-founded safeguards conclusions, IAEA needs to receive early design information in accordance with the IAEA Board of Governors' 1992 decision, in GOV/2554/Attachment 2/Rev.2, to determine, whenever appropriate, the status of any nuclear facilities and to verify, on an ongoing basis, that all nuclear material in non-nuclear-weapon States is placed under safeguards. The Group stresses the need for all non-nuclear-weapon States parties to provide this information to the Agency on a timely basis.

21. The Group encourages States to undertake early consultations with the Agency at the appropriate stage of the design process to ensure that safeguards-relevant aspects relating to new nuclear facilities are taken into consideration in order to facilitate future safeguards implementation, from their initial planning stage through design, construction, operation and decommissioning.

22. The Vienna Group supports the recommendations of the 1995 and 2010 Review Conferences that IAEA safeguards be assessed and evaluated regularly. Decisions adopted by the IAEA policy bodies aimed at further strengthening the effectiveness and improving the efficiency of IAEA safeguards should be supported and implemented.

Annex

Non-compliance challenges

1. The Vienna Group underlines that the Democratic People's Republic of Korea nuclear-weapons programme remains a serious challenge to the international nuclear non-proliferation regime as well as to peace and stability in the Korean peninsula and beyond, and notes resolution GC(56)/RES/14 of the General Conference of the International Atomic Energy Agency (IAEA), highlighting serious concerns related to implementation of IAEA safeguards in the Democratic People's Republic of Korea.
2. The Vienna Group strongly supports this resolution and, inter alia:
 - Strongly urges the Democratic People's Republic of Korea not to conduct any further nuclear tests, to fully comply with all its obligations under Security Council resolutions 1718 (2006), 1874 (2009) and 2087 (2013) and other relevant resolutions, and to fulfil its commitments under the 19 September 2005 Joint Statement of the Six-Party Talks, including abandoning all its nuclear weapons and existing nuclear programmes and immediately ceasing all related activities;
 - Reaffirms that the Democratic People's Republic of Korea cannot have the status of a nuclear-weapon State in accordance with the Treaty on the Non-Proliferation of Nuclear Weapons, as stated in Security Council resolutions 1718 (2006), 1874 (2009) and 2087 (2013) and the Final Document of the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons;
 - Calls upon the Democratic People's Republic of Korea to come into full compliance with the Treaty on the Non-Proliferation of Nuclear Weapons and to cooperate promptly with the Agency in the full and effective implementation of Agency comprehensive safeguards, including all necessary safeguards activities provided for in the safeguards agreement, which the Agency has not been able to conduct since 1994, and to resolve any outstanding issues that may have arisen owing to the long absence of Agency safeguards and the lack of Agency access since April 2009;
 - Deplores the Democratic People's Republic of Korea's actions to cease all cooperation with the Agency, strongly endorses the actions taken by the Board of Governors, commends the impartial efforts of the Director General and the secretariat to apply comprehensive safeguards in the Democratic People's Republic of Korea, and encourages the secretariat to maintain its readiness to play an essential role in verifying the Democratic People's Republic of Korea's nuclear programme, including the capability to re-establish implementation of safeguards-related activities in the Democratic People's Republic of Korea.
3. The Democratic People's Republic of Korea nuclear tests of 9 October 2006, 25 May 2009 and, most recently, 12 February 2013 demonstrate the urgent need for the Democratic People's Republic of Korea to comply with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons and to allow for the return of IAEA inspectors and the reintroduction of IAEA safeguards. The latest nuclear test highlights the important role that the Agency needs to play in resolving the nuclear situation on the Korean peninsula.

4. The Vienna Group takes note of serious concerns regarding Iran's failure to establish confidence in the peaceful nature of its nuclear activities and recalls the IAEA Director General's assertion that unless and until Iran provides the necessary cooperation with the Agency, the Agency will not be and is not in a position to provide credible assurances about the absence of undeclared nuclear material and activities in Iran and therefore to conclude that all material in Iran is in peaceful activities.

5. Given Iran's past failures to declare fully its nuclear activities, the 2005 finding of the Board of Governors of Iran's non-compliance with its Non-Proliferation Treaty safeguards agreement, and the serious concerns regarding the "possible military dimensions" of Iran's nuclear programme found in the annex to the Director General's November 2011 report, the Vienna Group affirms that the establishment of confidence in Iran's nuclear programme requires not only assurances of the non-diversion of declared nuclear material, but, equally importantly, of the absence of undeclared nuclear material and activities, and that this can be accomplished only through Iran's full and transparent cooperation with IAEA.

6. The Vienna Group endorses the elements outlined in all relevant IAEA resolutions and calls on Iran to fully implement its Non-Proliferation Treaty safeguards agreement, including its modified code 3.1 obligations as they were agreed between Iran and the Agency, and to bring into force and fully implement its additional protocol and all other transparency and access measures requested by the IAEA Director General in order to resolve urgently outstanding substantive issues.

7. The Vienna Group expresses its serious concern over the lack of progress in the IAEA-Iran talks and notes the Agency's 14 February statement that time was needed to reflect on the way forward and that no further meeting had been scheduled. It is incumbent upon Iran to provide the Agency with the cooperation necessary to fulfil all IAEA resolutions.

8. The Vienna Group further expresses serious concern at Iran's continuing uranium enrichment activities in defiance of IAEA Board resolutions and Security Council resolutions.

9. The Vienna Group recalls with concern the finding by the IAEA Board of Governors (resolution GOV/2011/36 of June 2011) that, based on the report of the Director General, Syria's undeclared construction of a nuclear reactor at Dair Alzour and its failure to provide design information for the facility in accordance with Code 3.1 of Syria's subsidiary arrangements are a breach of articles 41 and 42 of Syria's Non-Proliferation Treaty safeguards agreement, and constitute non-compliance with its obligations under its safeguards agreement with the Agency in the context of article XII.C of the Agency's statute.

10. The Vienna Group fully supports calls upon Syria to remedy urgently its non-compliance with its safeguards agreement, noting that the ongoing conflict there should not be used to justify any delay, by providing all access and information requested by IAEA in order to resolve all outstanding questions so that the Agency can provide the necessary assurances as to the exclusively peaceful nature of Syria's nuclear programme.

11. The Vienna Group further calls upon Syria to sign and promptly bring into force and implement in full the Additional Protocol and, pending that, to act in accordance with the Additional Protocol so that the Director General can provide the necessary assurances regarding both the correctness and the completeness of Syria's declarations pursuant to its safeguards agreement.