

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

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Peaceful use of nuclear energy

Working paper submitted by Egypt

Overview

1. The inalienable right to peaceful uses of nuclear energy represents a core pillar of the Treaty on the Non-Proliferation of Nuclear Weapons, along with nuclear disarmament and nuclear non-proliferation. In order to pursue the vertical non-proliferation objectives of the Treaty, both globally and regionally, article III of the Treaty requires that non-nuclear-weapon States conclude a comprehensive safeguards agreement as the verification standard under the Treaty. Article IV, paragraph 1, confirms that “nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination”.
2. Comprehensive safeguards agreements represent an essential element for the implementation of the Treaty, which in article III, paragraph 3, confirms that safeguards should be implemented in a manner that will “avoid hampering the economic or technological development of the Parties or international cooperation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes”.
3. In that context, the International Atomic Energy Agency (IAEA) remains the sole competent international organization responsible for verifying the fulfilment of comprehensive safeguards obligations under the Treaty as well as being the global focal point for technical cooperation in the nuclear field. Furthermore, while the primary responsibility for nuclear safety and security remains that of individual States, the Agency also maintains a central role in matters related to nuclear safety and nuclear security under its mandate and based on its long-standing expertise in both areas.
4. However, the statutory role of IAEA in nuclear disarmament remains extremely limited. There is an urgent need to develop a comprehensive legal framework under which nuclear-weapon States submit their peaceful and military nuclear facilities and existing fissile material stocks to safeguards, assuring that such material will not be used to manufacture more nuclear weapons and confirming



the irreversibility of nuclear disarmament measures in such States. That will enable IAEA to play its expected role in effectively verifying a future nuclear weapons convention, or a fissile material cut-off treaty, covering all existing nuclear activities and stockpiles.

5. Priority of the promotion of the comprehensive safeguards system itself, particularly in States that have yet to conclude such agreements within the Treaty and States that are not yet party to the Treaty should be respected. The Model Additional Protocol is an additional supplementary measure that only commits States that have voluntarily chosen to conclude such an instrument with IAEA. It is therefore important that the manner pursued in the promotion of the Model Additional Protocol, as supplementary to the comprehensive safeguards system, reflects awareness of that fact.

6. The continued existence of a huge gap in the implementation of commitments in the field of nuclear non-proliferation and nuclear disarmament directly aligns with the huge gap that exists between existing safeguards obligations undertaken by non-nuclear-weapon States and those applied in nuclear-weapon States, which remain largely symbolic in nature and scope.

7. An even bigger gap exists when comparing obligations undertaken by non-nuclear weapon States with obligations undertaken by States that are not party to the Treaty. It is clear that the continued presence of such a gap in the commitments within and outside the Treaty reflects negatively on both its nuclear disarmament and nuclear non-proliferation objectives. In order to address the gap, it is crucial to take progressive measures to restrict and prevent cooperation with such States in accordance with terms identified under the Treaty and under the relevant decisions of Review Conferences in that regard.

8. In that regard, the 1995 Review and Extension Conference decision entitled “Principles and objectives for nuclear non-proliferation and disarmament” clearly states that “supply arrangements for the transfer of source or special fissionable material or equipment or material especially designed or prepared for the processing, use or production of special fissionable material to non-nuclear-weapon States should require, as a necessary precondition, acceptance of the Agency’s full-scope safeguards and internationally legally binding commitments not to acquire nuclear weapons or other nuclear explosive devices”. Cooperation with States that are not party to the Treaty without respect for such conditions of supply identified in the decision undoubtedly represent a clear violation of the decision and runs contrary to the letter and spirit of the Treaty.

9. As has been reaffirmed in previous Review Conferences, including by action 47 of the 2010 Review Conference, the choices and decisions of each State party in the field of peaceful uses of nuclear energy should be respected, without jeopardizing the State’s policies or international cooperation agreements and arrangements for peaceful uses of nuclear energy and the State’s fuel cycle policies and selected energy mix.

10. In further developing and implementing the State-level approach to safeguards, IAEA should make sure that it strictly abides by the existing rights and obligations set forth by the comprehensive safeguards agreement with the State. The Agency should by no means seek new interpretations of existing agreements, nor seek to pursue additional measures under existing agreements that are not clearly

specified therein. The Agency should also exercise utmost transparency and balance and secure the consent of IAEA member States in developing and implementing the concept.

Actions required by the Conference

The Conference should review the implementation of Treaty obligations in the field of peaceful use of nuclear energy, taking into account relevant obligations adopted at the 1995, 2000 and 2010 Review Conferences, and decide on necessary measures for the full implementation of the Treaty. In that context, the Conference should:

1. Reaffirm the full respect of choices and decisions of each State party in the field of peaceful use of nuclear energy, acknowledging the right of States parties to the Treaty to participate in the fullest possible exchange of equipment, material and scientific and technological information.
2. Reiterate that IAEA remains the sole international competent international organization responsible for verifying the fulfilment of comprehensive safeguards obligations under the Treaty and represents the global focal point for technical cooperation in the nuclear field.
3. Call upon all States to refrain from exerting any pressure or interference in the activities of IAEA, in particular in the field of safeguards, which can undermine the efficiency, impartiality or credibility of the Agency.
4. Reaffirm the crucial importance of achieving the universality of the comprehensive safeguards agreements as an important contribution to both the nuclear non-proliferation and nuclear disarmament objectives of the Treaty.
5. In that context, call upon all States not parties to the Treaty, by name, to accede, without any further delay and any preconditions and as non-nuclear-weapon States, to the Treaty and to bring into force comprehensive safeguards agreements as soon as possible in order to place all their nuclear facilities and activities under IAEA comprehensive safeguards, and to take all necessary measures to bring about the universality of the Treaty, including through strictly refraining from any form of nuclear cooperation with States that are not party to the Treaty.
6. Call for strengthening the IAEA Technical Cooperation Programme and for taking all possible steps to ensure that IAEA technical cooperation resources are sufficient, assured and predictable.
7. Confirm the need to develop a comprehensive legal framework under which nuclear-weapon States submit all their nuclear facilities and all existing fissile material stocks to IAEA safeguards, assuring that such material will not be used to manufacture more nuclear weapons and confirming the irreversibility of past and future nuclear disarmament measures to be taken in such States.
8. Confirm that States parties should refrain from imposing any restrictions or limitations on the transfer of nuclear material, equipment or technology to States parties that have a comprehensive safeguards agreement in force.
9. Confirm that international efforts to develop and promote multilateral norms in the fields of nuclear safety and security should be pursued within the

framework of IAEA and driven by its member States, multilaterally, in a gradual, inclusive and transparent manner.

10. Reaffirm the importance of strict observance by States parties, both individually and in the context of supply regimes, of conditions for supply under the Treaty, as confirmed in the 1995 decision entitled “Principles and objectives for nuclear non-proliferation and disarmament”, in particular paragraph 12 on acceptance of the Agency’s full-scope safeguards and internationally legally binding commitments not to acquire nuclear weapons or other nuclear explosive devices as essential requirements for any supply arrangements for the transfer of source or special fissionable material or equipment or material especially designed or prepared for the processing, use or production of special fissionable material to non-nuclear-weapon States.

11. Confirm that cooperation with States not party to the Treaty in the nuclear field, in particular by supplying material, equipment and/or technology, represents a violation of the Treaty, severely undermines the potential for Treaty universality and defeats the nuclear disarmament and non-proliferation objectives of the Treaty. In that regard, revised policies or exceptions extended seeking to allow the aforementioned cooperation with States not party to the Treaty should not be sought, accepted or applied under any circumstances.

12. Affirm that IAEA should strictly abide by the existing rights and obligations set forth under existing comprehensive safeguards agreements, including in the context of the development and implementation of the State-level concept. In that regard, the Agency should by no means seek new interpretations of existing agreements, nor seek to pursue additional measures under existing agreements that are not clearly specified therein. The Agency should also exercise utmost transparency and balance and secure the consent of IAEA member States in developing and implementing the concept.
