

2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Framework for peaceful nuclear cooperation

Working paper submitted by Belgium, Canada, Cyprus, Estonia, Finland, France, Germany, Greece, Mexico, the Niger, Portugal, Romania, Spain and Ukraine

1. The development of peaceful uses of nuclear technologies is central to the implementation of the objectives of the Treaty on the Non-Proliferation of Nuclear Weapons, along with nuclear disarmament and non-proliferation. All States parties to the Treaty have the right to benefit from the civil applications of nuclear technologies, provided that they respect their international obligations and pursue nuclear activities exclusively for peaceful purposes.
2. Intergovernmental agreements in the field of civil nuclear cooperation are international agreements concluded between States in written form and governed by international law. Their main goal is to provide a legal framework for peaceful nuclear cooperation between States.

Intergovernmental agreements and nuclear energy

3. For States opting for nuclear energy to meet their energy needs and reduce their greenhouse gas emissions, intergovernmental agreements offer a viable framework for strengthening international cooperation.

Intergovernmental agreements help promote non-energy nuclear applications

4. Nuclear technologies also have an essential role to play in socioeconomic development and the achievement of the Sustainable Development Goals. Nuclear applications are of great interest in a number of fields, including human health, agriculture and food security, the preservation of cultural heritage, environmental protection, water management and industrial applications.
5. It is therefore legitimate to seek to enable the largest possible number of countries to receive the benefits of civil nuclear uses.



Intergovernmental agreements can help build the institutional, technical and legal framework towards the beneficial, sustainable, safe and secure use of nuclear technologies

6. To ensure international support for the responsible and sustainable development of nuclear energy, as well as other peaceful nuclear applications, international cooperation in this field should be pursued in a manner consistent with international obligations, in accordance with the highest international standards of nuclear safety, security, safeguards, non-proliferation and environmental protection as prescribed by, inter alia, the International Atomic Energy Agency (IAEA). International cooperation should also be based on the specific objectives, needs and assets of each partner country.

7. As the strategic decision to launch a civil nuclear power programme on a State's territory or to supply a facility or nuclear material (outside a State's territory) requires the involvement of governmental authorities, the conclusion of an intergovernmental agreement is often a prerequisite and an appropriate tool for industrial, institutional, scientific or technical partnerships in the field of nuclear cooperation. The preparation of such an intergovernmental agreement and its negotiation usually involve a wide range of national actors.

8. Alongside the States that have already developed a civil nuclear industry, some 30 additional States are, at various stages of progress, currently considering the use of nuclear technologies in their energy mix or for non-energy applications. In this context, many of them have entered into intergovernmental agreements with States with mature nuclear industries in order to support civil nuclear cooperation.

9. Such intergovernmental agreements can serve as umbrella agreements that facilitate further cooperation through project specific agreements, for instance between safety regulation authorities, operators and entities in charge of waste management, training and research and development.

10. Although there is no single model or framework for civil nuclear cooperation, such umbrella intergovernmental agreements may usefully include provisions regarding:¹

- Preamble to the agreement
- Areas of cooperation
- Definitions
- Protection of sensitive information
- Nuclear safety
- Peaceful, non-explosive assurances
- IAEA safeguards, including fallback safeguards
- Nuclear security
- Transfers and retransfers of nuclear materials, specific equipment and technologies
- Intellectual property
- Nuclear third-party liability

¹ This is an illustrative list of possible elements to be included in an intergovernmental agreement. Each State has the right, pursuant to domestic policy requirements, to adopt conditions of supply that may be more comprehensive or that may not have been included in the present working paper.

- Monitoring of the cooperation
- Settlement of disputes
- Entry into force, duration and termination

11. The conclusion of an intergovernmental agreement sets a clear framework for active cooperation, with a clear identification of partner countries' objectives and relevant stakeholders on both sides. It has the advantage of providing legal certainty and stability and helps streamline the export control process. Moreover, it clearly establishes the reciprocal obligations that both parties must undertake in order to ensure international support for the responsible and sustainable development of nuclear energy, as well as other peaceful nuclear applications.

12. As we work towards the tenth Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, France has expressed its willingness to share its experience in this field and consider how best to promote the responsible and sustainable development of civilian nuclear programmes through enhanced cooperation, based on intergovernmental agreements.

13. For this purpose, France has developed examples of what could constitute a non-exclusive reference on good practices and elements to be included with regard to intergovernmental agreements in the field of civil nuclear cooperation. These examples could be discussed in general and in relation to other national practices during the tenth Review Conference, serving as a contribution to the work of the Review Conference under the third pillar of the Treaty.

Examples of good practices and elements for an intergovernmental agreement for the development of peaceful nuclear cooperation

Preamble to the agreement

14. Reference to the general objectives of the agreement and recognition of relevant international agreements that the Governments are party to and commitments made thereunder, such as the Non-Proliferation Treaty, the Comprehensive Nuclear-Test-Ban Treaty and treaties on regional nuclear-weapon-free zones, and the commitment to facilitate nuclear cooperation for peaceful uses.

Areas of cooperation

15. Description of possible areas of cooperation, for example: exchange of information on energy policy, legislation and regulation in the nuclear field, fundamental and applied research and development, uses of nuclear energy such as for the generation of electricity and other applications, including human health, agriculture and food security, the preservation of cultural heritage, environmental and water resources protection or industrial applications, spent nuclear fuel and radioactive waste management, nuclear safety, radiation protection and radiological environmental protection, nuclear security, nuclear safeguards, decommissioning, human resources development, etc.

Definitions

16. Defining of key terms referenced in the agreement, including nuclear material, equipment, research and development, non-nuclear material and technology.

Protection of sensitive information

17. Agreement to protect the information exchanged that is marked as such, if need be through a dedicated security agreement on the exchange of confidential and sensitive information.

Nuclear safety

18. Reference to the objective of achieving and maintaining the highest levels of nuclear safety and/or explicitly to the relevant international instruments.

Peaceful, non-explosive assurances

19. Commitment that the transfers (including of knowledge and technology) under the intergovernmental agreement, as well as their results and by-products, will be used exclusively for peaceful purposes.

International Atomic Energy Agency safeguards, including fallback safeguards

20. Commitment that the transfers of nuclear material under the intergovernmental agreement and their successive generations will be subject to IAEA safeguards under the relevant agreement supplemented by an additional protocol.

21. In the event of IAEA safeguards no longer being applied, the parties undertake to establish a mutually agreed safeguards system² covering all items subject to the agreement.

Nuclear security

22. Reference to the objective of achieving and maintaining effective physical protection of nuclear material and of nuclear facilities pursuant to international standards and adhering to relevant international conventions.

Transfers and retransfers of nuclear materials, specific equipment and technologies

23. Agreement that retransfers of items (nuclear materials, specific equipment and technology) transferred under the intergovernmental agreement and items derived therefrom can be made only after obtaining the prior written consent of the initial supplier in a manner that is consistent with its domestic non-proliferation requirements. In some instances, this could require that the retransfer is authorized only to a third party which has provided the same assurances as those required by the intergovernmental agreement for the original transfer.

24. Intergovernmental agreements may also include provisions that establish specific conditions for the reprocessing and enrichment of any material subject to the intergovernmental agreement, including the need for consultations between the parties and the prior written consent of the other party.

Intellectual property

25. General clause for the protection of intellectual property stating, for instance, that, in the framework of the cooperation, intellectual property will be attributed on a case-by-case basis, in specific agreements or contracts.

² Mutually agreed safeguards systems are also known as fallback safeguards. They ensure that materials remain safeguarded in all circumstances, including in the unlikely case of a country withdrawing from the Non-Proliferation Treaty.

Nuclear third-party liability

26. Reference to the principles established through the main relevant international conventions, on the basis of which the Parties agree on a third-party liability regime and provide for the appropriate insurance coverage and/or adherence to the specific conventions.

27. For some States, intergovernmental agreements may not tackle nuclear third-party liability.

Monitoring of the cooperation

28. Reference to the setting up – for example – of a working group or consultation mechanism to monitor the cooperation.

Settlement of disputes

29. General provision on an agreed mechanism for the settlement of disputes.

Entry into force, duration and termination

30. General provisions for entry into force. The duration is usually from 10 to 40 years and is possibly tacitly renewable.

31. The States submitting the present working paper wish to engage in a dialogue in the framework of the tenth Review Conference to consider how to promote good practices in terms of intergovernmental agreements on the responsible development of civil nuclear cooperation.
