

2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

14 May 2010.

English only.

New York, 3-28 May 2010

Report of Main Committee III: Chairman's Draft on Substantive Elements

Decisions and recommendations of previous Conferences

1. The Conference notes that the States parties reiterated their commitment to the effective implementation of the Treaty, the decisions and the resolution on the Middle East adopted by the 1995 Review and Extension Conference and the Final Document of the 2000 Review Conference.
2. The Conference reaffirms that nothing in the 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 and in conformity with articles I, II and III of the Treaty. The Conference recognizes that this right constitutes one of the fundamental objectives of the Treaty. In this connection, the Conference confirms that each country's choices and decisions in the field of peaceful uses of nuclear energy should be respected without jeopardizing its policies or international cooperation agreements and arrangements for peaceful uses of nuclear energy and its fuel-cycle policies.
3. The Conference reaffirms that all States parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy in a safe and secure manner. States parties to the Treaty in a position to do so should also cooperate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States, with due consideration for the needs of the developing areas of the world.
4. The Conference calls upon all States parties, in acting in pursuance of the objectives of the Treaty, to observe the legitimate right of all States parties, in particular developing States, to full access to nuclear material, equipment and technological information for peaceful purposes. Transfers of nuclear technology and international cooperation among States parties in conformity with articles I, II and III of the Treaty are to be encouraged. They would be facilitated by eliminating undue constraints that might impede such cooperation.

5. The Conference underlines the role of the IAEA in assisting developing States parties in the peaceful uses of nuclear energy through the development of effective programmes aimed at improving their scientific, technological, and regulatory capabilities.

Peaceful uses of nuclear energy – Nuclear Energy and Technical Cooperation

6. The Conference underlines that the Treaty fosters the development of peaceful uses of nuclear energy and provides an essential basis for safe and secure technological transfer and co-operation by laying the framework for ensuring that nuclear materials and facilities do not contribute to proliferation.
7. The Conference emphasizes that cooperation in the peaceful uses of nuclear energy is one of the core objectives enshrined in the IAEA Statute.
8. The Conference positively notes that States parties actively cooperate, among themselves and with the IAEA, for the peaceful applications of nuclear energy, including through international technical cooperation.
9. The Conference underlines that the IAEA's activities in the field of technical cooperation, nuclear power and non-power applications contribute in an important way to meet energy needs, improve health, combat poverty, protect the environment, develop agriculture, manage the use of water resources and optimize industrial processes, thus helping to achieve the Millennium Development Goals, and that these activities, as well as bilateral and other multilateral cooperation, contribute to achieving objectives set forth in Article IV of the Treaty.
10. The Conference affirms the importance of transparency by States parties in connection with their nuclear activities to help build confidence in peaceful uses of nuclear energy.
11. The Conference emphasizes the importance of the technical cooperation activities of the IAEA, and stresses the importance of nuclear knowledge sharing and the transfer of nuclear technology to developing countries for the sustaining and further enhancement of their scientific and technological capabilities, thereby also contributing to their socio-economic development in areas such as human health, including the application of nuclear technology in cancer therapy and the use of nuclear techniques in water resources management, industry, food, nutrition and agriculture.
12. The Conference stresses that the IAEA Technical Cooperation (TC) programme, as the main vehicle for the transfer of nuclear technology for peaceful purposes, is formulated in accordance with the IAEA's Statute and guiding principles.
13. The Conference notes the continuous efforts by the IAEA and its Member States to enhance the effectiveness and efficiency of the IAEA's technical co-operation programme in partnership and in the light of changing circumstances and needs of concerned states.

14. The Conference recognizes that regional cooperative arrangements for the promotion of the peaceful use of nuclear energy can be an effective means of providing assistance and facilitating technology transfer, complementing the Technical Cooperation activities of IAEA in individual countries. It notes the contributions of the African Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology (AFRA), the Regional Cooperative Agreement for the Advancement of Nuclear Science and Technology in Latin America and the Caribbean (ARCAL), the Regional Cooperative Agreement for Research, Development and Training Related to Nuclear Science and Technology for Asia and the Pacific (RCA), the Cooperative Agreement for Arab States in Asia for Research, Development and Training related to Nuclear Science and Technology (ARASIA), as well as the regional Technical Cooperation Programme in Central and Eastern Europe.
15. The Conference positively notes that States parties make every effort to ensure that the IAEA's resources for technical cooperation activities should be sufficient, assured and predictable (SAP) to meet the objectives mandated in Article II of the IAEA Statute, notes with appreciation the 94% Rate of Attainment level by the end of 2009, and looks forward to reaching the rate of 100%, which is central to reconfirming the commitment of IAEA Member States to the IAEA's TC programme, and thus recalls that the financing of TC should be in line with the concept of shared responsibility and that all members share a common responsibility towards financing and enhancing the TC activities of the IAEA.
16. The Conference welcomes the commitment of the IAEA Director General to ensuring that the IAEA's work continues to meet the basic needs of human beings in the fields of, inter alia, human health, including the application of nuclear technology in cancer therapy, water resources, industry, food, nutrition and agriculture and especially the IAEA Director General's initiative to highlight cancer control as a priority for the IAEA during 2010.
17. The Conference welcomes the announcement made by the United States of the launching of the "Peaceful Uses Initiative" and its contribution of 50 million dollars as additional extra-budgetary contribution to the IAEA activities for the next five years and encourages all other States parties in a position to do so to make additional contributions to this initiative.

Nuclear Power

18. The Conference acknowledges that each State party has the right to define its national energy policy in accordance with its national requirements and its relevant international obligations.
19. The Conference recognizes that a diverse portfolio of energy sources will be needed to allow access to sustainable energy and electricity resources in all regions of the world, and that States parties may pursue different ways to achieve their energy security and climate protection goals.

20. The Conference recognizes the safety and security issues associated with nuclear energy, as well as the need to resolve the issue of managing radioactive waste in a sustainable manner, while also recognizing the continuing international efforts to address those issues.
21. The Conference confirms that the use of nuclear power must be accompanied by commitments to and ongoing implementation of the highest levels of IAEA safeguards, safety and security standards.
22. The Conference recognizes that the development of an appropriate infrastructure to support the safe, secure and efficient use of nuclear power, in line with relevant IAEA standards, is an issue of central importance, especially for countries that are considering and planning for the introduction of nuclear power.
23. The Conference affirms the importance, when developing nuclear energy, including nuclear power, of ensuring the highest levels of safety, security, non-proliferation and environmental protection, while noting the importance of working to further develop and promote advanced nuclear technologies, nationally and through cooperation in all relevant international initiatives such as, inter alia, GNEP, INPRO, ITER and the Generation IV International Forum.
24. The Conference welcomes the conclusions of the International Ministerial Conference on Nuclear Energy in the 21st Century organized by the IAEA in Beijing, China, in April 2009 and the international conference on access to nuclear energy held in Paris, France, in March 2010.
25. The Conference seeks to further the development of a new generation of proliferation-resistant nuclear power reactors and to minimize the need for and stockpiles of highly enriched uranium for peaceful purposes, through international initiatives such as the Global Threat Reduction Initiative.

Multilateral Approaches to the Nuclear Fuel Cycle

26. The Conference notes the various proposals in the field of multilateral approaches to the nuclear fuel cycle and assurance of nuclear fuel supply and encourages all efforts to further develop them in conformity with the Treaty and the IAEA Statute.
27. The Conference notes, amid a nuclear renaissance, while some 60 countries are considering introducing nuclear power for the first time, that a number of other fuel cycle-related multilateral proposals, which would be under IAEA control and safeguards, are currently under consideration, including an IAEA low enriched uranium (LEU) bank.
28. The Conference notes the adoption at the session of the IAEA Board of Governors on 27 November 2009 of the Resolution on establishment in the territory of Russia of a reserve of low-enriched uranium for the use of IAEA Member States as well as the signature on 29 March 2010 of the relevant Agreement between Russia and the IAEA.

29. The Conference stresses that proposals for assurance of supply should be addressed in a multilateral, economically viable, non-discriminatory and transparent manner under the auspices of IAEA, without infringement of the rights of States parties under article IV of the Treaty, confirms that each State party's choices and decisions in the field of peaceful uses of nuclear energy should be respected without jeopardizing its policies or international cooperation agreements, arrangements for peaceful uses of nuclear energy and its fuel cycle policies.
30. The Conference also notes reliable and transparent fuel assurance mechanisms can provide an effective back-up to the existing market. The market, with such back up, can give countries that have chosen to develop or expand nuclear power programmes a cost-effective and viable alternative to developing nuclear fuel cycle capabilities of their own, without affecting their rights under the Treaty.
31. The Conference underlines the importance of continuing to discuss further the possibilities to create mechanisms for assurance of nuclear fuel supply in a non-discriminatory and transparent manner under the auspices of IAEA, without affecting rights under the Treaty;

Nuclear safety and nuclear security – in general

32. The Conference stresses the importance of nuclear safety and nuclear security for the peaceful uses of nuclear energy. While nuclear safety and nuclear security are national responsibilities, the IAEA should play the key role in the development of international safety standards, nuclear security-guidance and relevant conventions based on best practice.
33. The Conference underlines the essential role of the IAEA in assisting developing States Parties in the peaceful uses of nuclear energy in a manner ensuring nuclear non-proliferation, safety and security.
34. The Conference notes that a demonstrated global record of safety is a key element for the peaceful uses of nuclear energy and that continuous efforts are required to ensure that the technical and human requirements of safety are maintained at the optimal level. Although safety is a national responsibility, international cooperation on all safety-related matters is indispensable. The Conference encourages the efforts of IAEA in the promotion of safety in all its aspects, and encourages all States parties to take the appropriate national, regional and international steps to enhance and foster a safety culture. The Conference welcomes and underlines the intensification of national measures and international cooperation in order to strengthen nuclear safety, radiation protection, the safe transport of radioactive materials and radioactive waste management, including activities conducted in this area by IAEA. In this regard, the Conference recalls that special efforts should be made and sustained to increase the awareness in these fields, through appropriate training and capacity building.

35. The Conference acknowledges the primary responsibility of individual States for maintaining the safety of their nuclear installations, and the crucial importance of an adequate national technical, human and regulatory infrastructure in nuclear safety, radiological protection and radioactive waste management.
36. The Conference calls upon all States parties that have not yet done so to become party to the Convention on Nuclear Safety, the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.
37. The Conference continues to endorse the principles and objectives of the Code of Conduct on the Safety and Security of Radioactive Sources and Code of Conduct on the Safety of Research Reactors, and underlines the important role of the Guidance on the Import and Export of Radioactive Sources.
38. The Conference calls upon all States parties that have not done so to become party to the Convention on the Physical Protection of Nuclear Material (CPPNM) and its amendment.
39. The Conference calls upon all States that have not yet done so to become party to the International Convention for the Suppression of Acts of Nuclear Terrorism.
40. The Conference welcomes the successful outcome of the Nuclear Security Summit held in Washington in April 2010, and takes notes the Communiqué and the Work Plan adopted at the Summit meeting.
41. The Conference recognizes the importance for nuclear safety and the environment of implementing best practice standards in uranium mining and processing.
42. The Conference underlines the fundamental importance of sustainable programmes, through international efforts, such as the IAEA, and regional efforts, for education and training in nuclear, radiation, transport, waste safety and nuclear security, while focusing on building institutional capacity and technical and managerial capabilities in States parties.
43. The Conference encourages State parties to promote the sharing of best practices in the area of nuclear safety and nuclear security, including with the involvement of the nuclear industry, and the private sector as appropriate.

Maritime transport of radioactive materials

44. The Conference recognizes that, historically, the safety record of civilian transport, including maritime transport, of radioactive materials has been excellent, and stresses the importance of international cooperation to maintain and enhance the safety of international transport.

45. The Conference reaffirms maritime and air navigation rights and freedoms, as provided for in international law and as reflected in relevant international instruments.
46. The Conference endorses the IAEA regulations for the safe transport of radioactive material and affirms that it is in the interests of all States parties that the transportation of radioactive materials be conducted in compliance with international standards of safety, security and environmental protection. The Conference takes note of the concerns of small island developing States and other coastal States with regard to the transportation of radioactive materials by sea and, in this regard, welcomes efforts to improve communication between shipping and coastal States for the purpose of addressing concerns regarding transport safety, security and emergency preparedness.

Armed attacks against nuclear installations devoted to peaceful purposes

47. The Conference considers that attacks or threats of attack on nuclear facilities devoted to peaceful purposes jeopardize nuclear safety, have dangerous political, economic and environmental implications and raise serious concerns regarding the application of international law on the use of force in such cases, which could warrant appropriate action in accordance with the provisions of the Charter of the United Nations.

Nuclear Liability

48. The Conference recalls the Paris Convention on Third Party Liability in the Field of Nuclear Energy, the Vienna Convention on Civil Liability for Nuclear Damage, the Brussels Convention supplementary to the Paris Convention, the Joint Protocol Related to the Application of the Vienna Convention and the Paris Convention and the protocols amending these conventions, and the objectives thereof, and noting also the intention of the Convention on Supplementary Compensation for Nuclear Damage to establish a worldwide nuclear liability regime based on the principles of nuclear liability law, without prejudice to other liability regimes.
49. The Conference emphasizes that States parties having or developing a nuclear power programme have common interest to have in force a civil nuclear liability regime, based upon the principles established by the main pertinent international instruments, such as: (i) liability is channeled exclusively to the operator of the nuclear installations; (ii) liability of the operator is absolute i.e. the operator is held liable irrespective of fault; (iii) liability is guaranteed by a financial security certified by the state of the operator, by acceding to relevant international instruments or adopting a national legislation to the same effect.

Future oriented actions:

The Conference calls upon states parties to:

- cooperate with other states or international organisations in the further development of nuclear energy for peaceful purposes, with due consideration for the needs of the developing areas of the world, in conformity with articles I, II and III of the Treaty,
- continue efforts, together with the IAEA, to enhance the effectiveness and efficiency of the IAEA's technical cooperation programme in partnership and in the light of changing circumstances and needs of states concerned,
- Strengthen the IAEA technical cooperation programme in assisting developing States parties in the peaceful uses of nuclear energy,
- make every effort to ensure that the IAEA's resources for technical cooperation activities should be sufficient, assured and predictable,
- encourages all other States parties in a position to do so to make additional contributions to the "Peaceful Uses Initiative" announced by the United States, while welcoming the announcement made by the United States of the launching of the Initiative and its contribution of 50 million dollars as additional extra-budgetary contribution to the IAEA activities for the next five years,
- ensure the development of an appropriate national infrastructure to support the safe, secure and efficient use of nuclear energy, in line with relevant IAEA standards, especially for countries that are considering and planning for the introduction of nuclear power,
- ensure, when developing nuclear energy, including nuclear power, the highest levels of safety, security, non-proliferation and environmental protection,
- address proposals for assurance of supply in a multilateral, economically viable, non-discriminatory and transparent manner under the auspices of the IAEA, without infringement of the rights of states parties under article IV of the Treaty, and to continue discussions on opportunities to create additional mechanisms for assurance of nuclear fuel supply,
- become party, if not yet have done so, to the Convention on Nuclear Safety, the Convention on the Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management,
- become party, if not yet have done so, to the Convention on the Physical Protection of Nuclear Material (CPPNM) and its amendment and to the International Convention on the Suppression of Acts of Nuclear Terrorism,

- promote the sharing of best practices in the area of nuclear safety and security, including with the involvement of the nuclear industry and the private sector, as appropriate,
- transport radioactive materials in compliance with international standards of safety, security and environmental protection, and to continue communication between shipping and coastal states for the purpose of confidence building and addressing concerns regarding transport safety, security and emergency preparedness,
- put in force a civil nuclear liability regime by becoming party to relevant international instruments or adopting a national legislation, based upon the principles established by the main pertinent international instruments,

[Placeholder – Subsidiary Body III]

Other provisions of the Treaty

ARTICLE IX

1. The Conference reaffirms that the preservation of the integrity of the treaty, achieving its universality, and its strict implementation is essential to international peace and security.
2. The Conference reaffirms the commitment of parties to the treaty to achieve its universality. States parties express their concern regarding the lack of progress in the achievement of universality, which seriously undermines the treaty and represents a threat to international peace and security.
3. The Conference reaffirms that in accordance with article IX, States not currently States Parties must accede to the treaty only as non-nuclear-weapons States, promptly and without conditions.
4. The Conference calls upon India, Israel and Pakistan to bring into force the required IAEA safeguards for ensuring nuclear non-proliferation, to reverse clearly and urgently any policies to pursue any nuclear weapons development, testing or deployment, and to refrain from any action that could undermine regional and international peace and security and the international community's efforts to achieve nuclear disarmament and the prevention of nuclear weapons proliferation.
5. The Conference also calls upon India and Pakistan to maintain moratoriums on nuclear testing, and calls upon India, Israel and Pakistan to become parties to the Comprehensive Nuclear-Test-Ban Treaty.
6. The Conference stresses that all NPT States parties should reverse any form of nuclear cooperation with States non-parties to the treaty including within the framework of the IAEA.

Article X

1. The Conference reaffirms the sovereign right of each State party to withdraw from the Treaty as provided by article X (1). It also underscores that article X envisages that withdrawal is exercised only in the face of extraordinary events, and that each State party must exercise this right strictly in accordance with article X, by giving notice of such withdrawal to all other parties in the Treaty and to the United Nations Security Council three months in advance, and by including, in such notice, a statement of the extraordinary events it regards as having jeopardized its supreme interests.

2. The Conference reaffirms that the right of withdrawal is governed by the provisions of the NPT and other relevant international law, as reflected in the Vienna Convention on the Law of the Treaties, and underscores that under international law a withdrawing party is still liable for breaches of the Treaty that occurred prior to withdrawal. It stresses that nuclear material, equipment and technology acquired by States for peaceful purposes prior to withdrawal must remain subject to peaceful use under the IAEA safeguards even after withdrawal.

3. In the event of a notice of withdrawal from the Treaty, the Conference calls upon the IAEA Board of Governors to authorize the Agency to verify compliance of the State withdrawing from the Treaty with its obligations under the safeguards agreement.

4. The Conference also calls upon all States parties to undertake consultations immediately to consider collectively notifications of withdrawal. In doing so States parties should also address the legitimate security interests of the withdrawing Party. Regional diplomatic initiatives should be encouraged and supported. Given the particular circumstances envisaged in article X for the exercise of the right to withdraw and the responsibility entrusted to the Security Council under the UN Charter, the Conference reaffirms the role of the Security Council, as provided for in the article X, and calls upon it to review the notifications of the withdrawal without delay.

5. The Conference recommends that nuclear supplying States consider incorporating dismantling and/or return clauses in the event of the withdrawal, in arrangements or contracts concluded with other State Parties as appropriate in accordance with international law and national legislation.

[Placeholder for the report on substantive proposals of States parties on institutional issues]