

JAPAN

WORKING PAPER

PROHIBITION OF ATTACKS AGAINST NUCLEAR FACILITIES

1. The purpose of this working paper is to indicate a possibility of solving the question of the prohibition of attacks against nuclear facilities within the framework of a Radiological Weapons treaty, with a view to facilitating deliberations on, and the early conclusion of a RW treaty.
2. Japan has 24 nuclear power stations, 6 nuclear-fuel processing facilities and 1 reprocessing plant on its small expanse of land territory and is firmly resolved to use nuclear energy only for peaceful purposes. For Japan, therefore, it is a matter of great concern to ensure the security of these nuclear facilities and we consider that the prohibiting of attacks against such facilities by international agreement would be of considerable significance in this regard. We also believe that achievement of such agreement would be a matter of similar interest to many other countries with nuclear facilities for peaceful purposes on their territories. Expressing such a view in the Second Special Session of the United Nations General Assembly devoted to Disarmament, Prime Minister Suzuki stated as follows: "It is a matter of great concern for countries of the world to be relieved of anxieties in regard to the peaceful uses of nuclear energy. It is important in particular, to ensure and guarantee the security of nuclear facilities for peaceful purposes, and Japan hopes that international efforts towards this end will be successful. My country, for its part, wishes to contribute positively to these efforts."
3. In the course of the deliberation of a RW treaty in the Committee of Disarmament, the Swedish delegation submitted a proposal that a future RW treaty should include a provision on the prohibition of attacks against nuclear facilities. Japan appreciates the intention of this Swedish proposal from the viewpoint mentioned in 2 above.

Recognizing the importance of both the conclusion of a so-called "traditional" RW treaty and the prohibition of attacks against nuclear facilities, we have prepared an outline of a draft protocol on the prohibition of attacks against nuclear facilities as an optional protocol to the RW treaty (see Annex).

4. Japan proposes to deal with this question in the form of an optional protocol to the RW treaty for the following reasons:

- (1) Both a RW treaty and the proposed provisions on the prohibition of attacks against nuclear facilities would aim at minimizing the damage which may be caused by dissemination of radioactive materials. They are, however, of a different nature in that the former would prohibit "weapons", while the latter would prohibit an "act" — the act of attacking nuclear facilities. It has become clear that the attempt to solve these two questions of a different nature by using one vehicle (a RW treaty) presents difficulties to many delegations and constitutes one of the factors making the achievement of a RW treaty difficult.
- (2) We believe, therefore, that one way to respond to the keen interest existing in the international community in both these questions is to attain an agreement on the prohibition of attacks against nuclear facilities in a separate instrument, while retaining a link to the RW treaty by making it an optional protocol within the framework of the treaty.
- (3) This proposal is put forward in response to the call of the Chairman of the Ad Hoc Working Group on Radiological Weapons, Ambassador Wegener, for a "compromise mechanism", and it is strongly hoped that it will be of some help in finding a way out of the present impasse in the efforts to achieve a RW treaty.

5. A view has been expressed that the question of the prohibition of attacks against nuclear facilities should be dealt with in the context of the 1977 Additional Protocols to the Geneva Conventions of 12 August 1949. However, it is necessary to bear in mind that the said Additional Protocols, which have their own background, prohibit attacks only on nuclear power stations.

6. With regard to the scope of the prohibition, namely which nuclear facilities should be protected from attack, Japan considers that out of nuclear facilities for peaceful purposes at least all nuclear facilities under IAEA safeguards should be protected.

7. We fully understand the idea that nuclear facilities in general should be protected from attack. Therefore, it is proposed that a paragraph to this effect be included in the preambular part of the protocol.

8. We are well aware that the conclusion of the proposed protocol as an international agreement would have complex implications for the security of states and would also involve a number of difficult technical problems of a legal nature. These would certainly require further examination and study.

9. It should also be pointed out that Japan has no intention to exclude the possibility of attacks against nuclear facilities in an independent and separate treaty.

ANNEX

OUTLINE OF DRAFT PROTOCOL ON THE PROHIBITION OF ATTACKS AGAINST
NUCLEAR FACILITIES (OPTIONAL PROTOCOL TO THE TREATY ON THE
PROHIBITION OF RADIOLOGICAL WEAPONS)

The States Parties to this Protocol,

1. Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations,
2. Taking into account the gravity of possible damage to the civilian population by radioactive contamination that could ensue in the case of an attack against a nuclear facility,
3. Expressing a general desire that nuclear facilities should not be attacked as a matter of principle,
4. Recognizing the importance of providing international protection to peaceful nuclear activities carried out under international control,
5. Believing that the prohibition of attacks against nuclear facilities on which IAEA safeguards are applied would contribute to the protection of the civilian population and the promotion of peaceful nuclear activities,
6. Desiring that such prohibition of attacks against nuclear facilities would supplement the measures provided for in the Treaty on the prohibition of radiological weapons the purpose of which is to prevent damage by dissemination of radioactive materials,

Have agreed as follows:

Article I

Each State Party to this Protocol undertakes not to make the object of attack any nuclear facilities on which IAEA safeguards are applied and which are located within the territory of any other State Party, under the jurisdiction of such other State Party or under its control anywhere.

Article II

The term "nuclear facilities on which IAEA safeguards are applied" means any nuclear facilities on which the application of IAEA safeguards is provided for in an agreement with the IAEA.

Article III

In order to facilitate the identification of nuclear facilities protected under Article I, these facilities may be marked with a special sign (to be agreed upon).

Articles IV -

(Provisions on a complaint procedure, the registration of nuclear facilities to be protected, scope of protection, duration of the Protocol, amendments, withdrawal, review conferences and other matters shall be included if necessary, or relevant provisions of the RW treaty shall be made to apply with appropriate modifications.)