
**2005 Review Conference of the Parties
to the Treaty on the Non-Proliferation
of Nuclear Weapons**

26 April 2005

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New York, 2-27 May 2005**Article III and preambular paragraphs 4 and 5, especially in
their relationship to article IV and preambular paragraphs
6 and 7 [Export Controls]****Working Paper for submission to Main Committee II by Australia,
Austria, Canada, Denmark, Hungary, Ireland, the Netherlands,
New Zealand, Norway, and Sweden**

1. The Conference reaffirms that each State party to the Treaty has undertaken not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material is subject to the safeguards required by article III of the Treaty.
2. The Conference urges all States parties to ensure that their nuclear-related exports to non-nuclear-weapon States do not assist the development of nuclear weapons or other nuclear explosive devices. The Conference reiterates that no State party should transfer any nuclear-related items to any recipient whatsoever, unless the transfer is in full conformity with the objectives and purposes of the Treaty as stipulated, particularly in articles I, II, III and IV. In this context the Conference emphasizes the need to promote understanding among all States parties that nuclear-export controls are a legitimate, necessary and desirable means of implementing States parties' obligations under article III of the Treaty, in order not to contribute to a nuclear explosive activity, an unsafeguarded nuclear fuel cycle activity, or acts of nuclear terrorism.
3. In this regard the Conference notes that Security Council resolution 1540 (2004), adopted on 28 April 2004, requires all States to take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear weapons, including by establishing and maintaining appropriate effective national export and trans-shipment controls over nuclear-weapon-related items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export.

4. The Conference underlines that effective export controls are also central to cooperation in the peaceful uses of nuclear energy, which depends on the existence of a climate of confidence about non-proliferation. In this respect the Conference notes the clear relationship between the non-proliferation obligations in articles I, II and III and the peaceful uses objectives of article IV of the Treaty. In this context the Conference reaffirms that nothing in the Treaty should be interpreted as affecting the inalienable right of all States party 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 notes the complementary and important role of national export control mechanisms in giving effect to States parties' obligations, under articles I, II and III, not to contribute to the proliferation of nuclear weapons; and recognizes that such controls are intended to provide an environment of confidence for international cooperation in the peaceful uses of nuclear energy. The Conference notes similarly that recipient States have an obligation to exercise appropriately stringent controls to prevent proliferation.

5. The Conference notes that a number of States parties meet regularly in an informal group known as the Zangger Committee, in order to coordinate their implementation of article III, paragraph 2, of the Treaty concerning the supply of nuclear material and equipment. To this end, these States parties have adopted certain Understandings, including a list of items triggering the International Atomic Energy Agency (IAEA) safeguards, for their exports to non-nuclear-weapon States not parties to the Treaty, as set forth in IAEA document INFCIRC/209 as amended. The Zangger Committee's Understandings also relate to exports to non-nuclear-weapon States party to the Treaty, insofar as the recipient State should recognize the items on the trigger list as well as the procedures and criteria from article III, paragraph 2, of the Treaty as a basis for its own export control decisions, including re-exports.

6. The Conference endorses the importance of the Zangger Committee as guidance for States parties in meeting their obligation under article III, paragraph 2, of the Treaty and invites all States to adopt the Understandings of the Zangger Committee in connection with any nuclear cooperation.

7. The Conference recommends that the list of items triggering IAEA safeguards and the procedures for implementation, in accordance with article III, paragraph 2, of the Treaty, be reviewed from time to time to take into account advances in technology, the proliferation sensitivity and changes in procurement practices. In this regard, the Conference takes note of the ongoing work in the Zangger Committee for reviewing the Understandings to take account of developments in the Treaty review process.

8. The Conference notes that a number of States parties have informed IAEA that they cooperate on a voluntary basis through guidelines for their nuclear-related exports (INFCIRC/254 as amended). The Conference notes the important and useful role the Nuclear Suppliers Group can play in guiding States in setting up their national export control policies.

9. The Conference recommends that transparency in export controls should continue to be promoted within a framework of dialogue and cooperation among all interested States party to the Treaty.

10. The Conference reaffirms 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 full-scope IAEA safeguards and internationally legally binding commitments not to acquire nuclear weapons or other nuclear explosive devices. The Conference urges those supplier States that have not yet done so to require such conditions without delay.

11. Noting that all non-nuclear-weapon States party to the Treaty have a legal obligation under article III to accept safeguards stipulated under the Treaty on the Non-Proliferation of Nuclear Weapons, and also noting that an INFCIRC/153 (Corrected) Safeguards Agreement together with an Additional Protocol (INFCIRC/540 (Corrected)) now represents the verification standard for Treaty safeguards, the Conference confirms that this verification standard should be a condition for new supply arrangements to non-nuclear-weapon States. The Conference recognizes the importance of the provisions of the Additional Protocol related to reporting to IAEA on the export and import of nuclear-related equipment.

12. The Conference notes that article III of the Treaty is designed to detect and prevent the diversion of nuclear material, equipment and technology. This relates both to diversion at the State level, and to diversion to individuals or subnational groups. The Conference affirms, therefore, that transfers of nuclear material, sensitive equipment or technology should only take place if the recipient State has in place an effective and adequate national system of nuclear security. This system comprises Treaty-related IAEA safeguards, an adequate system of physical protection, a minimum set of measures to combat illicit trafficking, and rules and regulations for appropriate export controls in case of retransfers.

13. While the responsibility to establish and implement such a system rests with the concerned State, supplying States parties have the responsibility to seek assurance that such a system is in place in the recipient State as a necessary precondition for nuclear supplies.
