

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

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The inalienable right to develop research, production and uses of nuclear energy for peaceful purposes

Working paper submitted by the Islamic Republic of Iran*

1. To use science and technology for peaceful purposes is an inalienable right inherited in the sovereignty of any State. Given the continuous increase in the weight of nuclear energy, as a clean, viable and environment and climate friendly source, in the energy mix of countries, and broad and ever-growing applications of nuclear science and technology and its prominent place in the sustainable socio-economic development of societies, the exercise of this inherent right is of outmost importance, in particular for the developing States parties.

2. The Treaty on the Non-Proliferation of Nuclear Weapons, in its article IV, ensures that nothing shall affect “the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination”. It also provides for an undertaking by all the parties to the Treaty “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”.

3. Article III, while providing for the undertaking by each non-nuclear-weapon State party to the Treaty to conclude safeguards agreement with the International Atomic Energy Agency (IAEA), is equally explicit in articulating that the implementation of such safeguards shall be “in a manner designed to comply with Article IV of this Treaty, and to 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 in accordance with the provisions of this Article and the principle of safeguarding set forth in the Preamble of the Treaty.”

4. This notion was duly noted in the Review Conferences of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, particularly in the Final Document of the 2000 Review Conference when considering that the strengthening of IAEA safeguards should not adversely affect the resources available for technical

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assistance and cooperation. It further maintains that in allocating resources, the Agency's statutory functions, including that of encouraging and assisting the development and practical application of atomic energy for peaceful uses with adequate technology transfer should be taken into account.

5. Given the importance of the peaceful applications of nuclear energy and nuclear technology for generating electricity, human health, medical, industrial, agriculture, environmental protection and sustainable development, specially in developing countries, the Statute of IAEA recognizes its role in encouraging and assisting "research on, and development and practical application of, atomic energy for peaceful uses throughout the world" and fostering "the exchange of scientific and technical information on peaceful uses of atomic energy".

6. However, the fundamental role of IAEA in the promotion of nuclear energy for peaceful purposes has been increasingly undermined by shortcomings in resources and restrictions imposed by some States on the Agency. Since the establishment of IAEA, developing countries have continually expressed serious concerns about the policy for funding technical cooperation, based on voluntary contributions that are unpredictable, unsecured and subject to the political motivations of the donors. Safeguards activities are, however, funded from the regular budget. Such a discriminatory policy with respect to two pillars of the Statute of the Agency and the Treaty has to be abandoned. In accordance with actions 53 and 54 of the conclusions and recommendations for follow-on actions of the 2010 Review Conference, States parties are called upon to strengthen the IAEA technical cooperation programme by assisting developing States parties in taking practical steps to ensure that IAEA resources in this area are sufficient, assured and predictable.

7. Moreover, measures taken by States parties to prevent nuclear proliferation should facilitate rather than hamper the exercise of the inherent rights of developing States parties to the Treaty to peaceful uses of nuclear energy. Imposition of restrictions as a cover for the implementation of the foreign policy objectives of certain States is a clear violation of article IV obligations, and challenges both the integrity and credibility of the Treaty.

8. Consistent with action 51 of the conclusions and recommendations for follow-on actions of the 2010 Review Conference, restrictions on the transfer of nuclear materials, equipment and technologies for the peaceful uses of nuclear energy should be swiftly removed. Bilateral and multilateral cooperation among States parties to the Treaty under the supervision of IAEA on the peaceful uses of nuclear energy should never be restricted or confined, either by other States or by ad hoc export control regimes. The application of unilaterally enforced export control regimes, in contravention of the letter and spirit of the Treaty, has hampered the access of developing countries to nuclear materials, equipment and technologies for peaceful purposes. It is essential to note the fact that, in the Statute of the Agency and in the Treaty, as well as in the comprehensive safeguards agreement and even the most intrusive, but voluntary, instrument, that is, the Additional Protocol to the comprehensive safeguards agreement, there is no provision to prohibit or restrict enrichment and reprocessing activities. The function of the Agency is merely to verify the fulfilment of safeguards obligations assumed by States parties under the Treaty.

9. The decision of the so-called Nuclear Supplier Group consisting of a limited numbers of NPT State parties in authorizing nuclear cooperation between its

members and a non-party to the Treaty constitutes clear breach of the commitment made under paragraph 12 of decision 2 of the 1995 Review and Extension Conference (Principles and objectives for nuclear non-proliferation and disarmament) and paragraph 36 of the Final Document of the 2000 Review Conference, in which NPT States parties agreed that any new supply arrangements for the transfer of nuclear material or equipment should require, as a necessary precondition, acceptance of the IAEA's full-scope safeguards and internationally legally binding commitments not to acquire nuclear weapons or other nuclear explosive devices.

10. The above-mentioned decision has had adverse effect on prospects for achieving the universality of the Treaty by sending a wrong message that being a non-party to the Treaty is more privileged than being a non-nuclear-weapon State party to the Treaty. Moreover, decision is another manifestation of double standards and discrimination in implementing the provisions of the Treaty. The Review Conference needs to address this important issue.

11. Measures need to be taken to ensure that the inalienable rights of all States parties under the Treaty are all fully protected. No State party should be limited in exercising its rights under the Treaty based on allegations of non-compliance. The inalienable rights of the States parties cover all aspects of peaceful technologies and are not limited to specific areas. In this connection, the outcome documents of the 2000 and 2010 Review Conferences have reiterated that each country's choices and decisions in the field of the peaceful uses of nuclear energy should be respected without jeopardizing its policies or international cooperation agreements and arrangements for the peaceful uses of nuclear energy and its fuel-cycle policies. Unfortunately, for the first time in the history of IAEA, the promotional statutory pillar of the Statute has been put in serious jeopardy through politically motivated decisions of the Security Council, which is trying to dictate to the Agency whether, how and when to deprive a developing member State of technical cooperation that is solely intended for humanitarian and peaceful uses. The authority of IAEA as the sole competent technical international organization has been seriously undermined. We strongly believe that there should be a balance between the promotional and safeguards activities of IAEA, and it should not be turned into a one-dimensional agency.

12. It should be once again reiterated that the arbitrary and self-serving criteria and thresholds regarding proliferation-proof and proliferation-prone technologies can and will only undermine the Treaty. The Islamic Republic of Iran, for its part, is determined to pursue all areas of nuclear technology, including fuel cycle and enrichment technology for peaceful purposes.

13. In order to strengthen the effectiveness and credibility of the Treaty and to put an end to the discriminatory implementation of its article IV, the 2015 Review Conference should adopt concrete recommendations that ensure full respect for the inalienable rights of all States parties, particularly developing countries, under this article, including to have full access to nuclear materials, technologies, equipment and scientific and technological information for peaceful purposes. As stipulated in the Treaty, none of its provisions shall be interpreted as affecting the inalienable right of States parties under its article IV.

14. In this context, the importance of ensuring respect to the right of developing States parties to participate in, the fullest possible exchange of equipment, materials

and scientific and technological information for the peaceful uses of nuclear energy needs to be underscored. Likewise, the developed States parties to the Treaty have an explicit legal obligation under this article to facilitate the participation, by the developing States parties, in and, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Additionally, as stipulated in article IV, all the States parties in a position to do so shall also cooperate in contributing alone, or together with other States or international organizations, to the further development of applications of nuclear energy for peaceful purposes, specially in the territories of non-nuclear-weapon States parties to the Treaty, with due consideration for the needs of the developing areas of the world.

15. The safeguards required by article III of the Treaty shall also be implemented in a manner designed to comply with article IV of the Treaty and to 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 materials and equipment for the processing, use or production of nuclear materials for peaceful purposes.

16. It should be reiterated that a diverse portfolio of energy sources is 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, in line with their national requirements and in exercising their sovereign rights to define their national energy and fuel-cycle policies that “includes an inalienable right to develop, for peaceful purposes, a full national nuclear fuel cycle”, as also reaffirmed by the Non-Aligned Movement.

17. The recent proposals and decisions on limitations or restrictions on the inalienable right of States parties to develop a national nuclear fuel cycle are inconsistent with article IV of the Treaty and thus a matter of serious concern. The 2015 Review Conference should address this issue and decide that any explicit or implicit decision or act, by any State or organization, that is intended to hamper, directly or indirectly, the nuclear policies of States parties to develop a national nuclear fuel cycle for peaceful purposes is in clear violation of article IV and therefore shall seriously be avoided.

18. The Islamic Republic of Iran while reaffirming that the primary responsibility for nuclear safety and security rests with individual States, emphasizes that measures and initiatives aimed at strengthening nuclear safety and security must not be used as a pretext or leverage to violate, deny or restrict, directly or indirectly, any element of the inalienable right of States parties to the peaceful uses of nuclear energy. Iran, in particular, stresses the importance of promoting non-discriminatory cooperation in the field of nuclear safety as a necessary element for exercising the inherent right to use nuclear energy for peaceful purposes.

19. While there exists a mechanism for verifying the fulfilment of safeguards obligations assumed by States parties under the Treaty with a view to preventing the diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices, there is no mechanism to verify and ensure that safeguards, as stipulated in the Treaty, are implemented in a manner that avoids “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 that

material for peaceful purposes". Taking into account this fact and the growing tendencies for imposing restrictions to the exercise of the inherent rights of developing States parties under article IV and the refusal of the developed States parties to fulfil their obligations under this article which, in practice results in violating the right of developing States parties under article IV and thus, hampering their economic or technological development, the 2015 Review Conference is urged to examine this issue and take concrete decisions to ensure the full and non-discriminatory implementation of the Treaty in regard to the peaceful uses of nuclear energy.
