

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

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Export controls

Working paper submitted by Australia, Austria, Canada, Denmark, Finland, Hungary, Ireland, the Netherlands, New Zealand, Norway and Sweden (the Vienna Group of Ten)

Key points

- All States parties are responsible for ensuring that their nuclear-related exports do not directly or indirectly assist the development of nuclear weapons or other nuclear explosive devices and that such exports are in full conformity with the objectives and purposes of the Treaty as stipulated, particularly, in articles I, II and III of the Treaty.
- All States should apply in their export control regimes the Understandings of the Zangger Committee which, in accordance with article III, paragraph 2, of the Treaty, are designed to implement the obligations under article II of the Treaty, as well as the Guidelines developed by a group of States for their nuclear-related exports. Effective export controls are central to cooperation in the peaceful uses of nuclear energy.
- The list of items triggering International Atomic Energy Agency (IAEA) safeguards and the procedures for implementation, in accordance with article III, paragraph 2 of the Treaty, should be reviewed from time to time to take into account advances in technology, the proliferation sensitivity and changes in procurement practices.
- New supply arrangements for the transfer of source or special fissionable material or equipment or material specially 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 the IAEA full-scope safeguards and an Additional Protocol based on the model INFCIRC/540 (Corrected).

Working paper on implementation of the Action Plan

1. The Vienna Group of Ten (the Vienna Group) reaffirms that each State party to the Treaty has undertaken not to provide source or special fissionable material, or



equipment or material specially 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 Vienna Group underlines the responsibility that all States parties have, and, in this regard, urges them to ensure that their nuclear-related exports do not directly or indirectly assist the development of nuclear weapons or other nuclear explosive devices and that such exports are in full conformity with the objectives and purposes of the Treaty as stipulated, particularly, in articles I, II and III of the Treaty, as well as the decision on principles and objectives of nuclear non-proliferation and disarmament adopted in 1995 by the Review and Extension Conference. Export controls aim to ensure that nuclear trade for peaceful purposes does not contribute to the proliferation of nuclear weapons or other nuclear explosive devices, and that international trade and cooperation in the nuclear field, under article IV of the Treaty, is not hindered unjustly in the process. In this context, the Group emphasizes the need to promote understanding among all States parties that nuclear export controls are a legitimate, necessary and desirable means of implementing the obligations of States parties 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 Vienna Group notes that Security Council resolution 1540 (2004), whose provisions were reiterated in Council resolutions 1673 (2006), 1810 (2008) and 1977 (2011), requires all States to take and enforce effective measures to establish domestic controls for preventing 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. The Group takes note of Council resolution 1887 (2009), in which the Council unanimously called upon States to adopt stricter national controls for the export of sensitive goods and technologies of the nuclear fuel cycle.

4. The Vienna Group recognizes that the existence of extensive covert networks related to the procurement and supply of sensitive nuclear equipment and technology underline the need for all States to exercise vigilance in countering proliferation, including through their nuclear export controls.

5. The Vienna Group 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 Group notes the clear relationship between the non-proliferation obligations as set out in articles I, II and III and the objectives in regard to peaceful uses as set out in article IV of the Treaty. In this context, the Group reaffirms that nothing in the Treaty should be interpreted as affecting the inalienable right of all States parties to the Treaty to undertake 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 Group notes that recipient States have an obligation to exercise appropriately stringent controls to prevent proliferation.

6. The Vienna Group 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, related to the supply of

nuclear material and equipment. To this end, these States parties have adopted certain Understandings, including a list of items triggering IAEA safeguards, for their exports to 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 parties to the Treaty insofar as the recipient State should recognize the items on the trigger list, as well as the procedures and criteria under article III, paragraph 2, of the Treaty as a basis for its own export control decisions, including re-exports.

7. The Vienna Group emphasizes the importance of the Zangger Committee in providing guidance to States parties in meeting their obligation under article III, paragraph 2, of the Treaty and encourages all States to apply the Understandings of the Zangger Committee in their export control regimes.

8. The Vienna Group 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 Group notes the important and useful role that the Nuclear Suppliers Group Guidelines play in the development of national export control policies and their contribution to the international non-proliferation regime and encourages all States to apply the Guidelines in their export control regimes.

9. The Vienna Group 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 so as to take into account advances in technology, proliferation sensitivity and changes in procurement practices.

10. The Vienna Group recommends that transparency in export controls should continue to be promoted within a framework of dialogue and cooperation among all interested States parties to the Treaty.

11. The Vienna Group notes the decision taken in September 2008 by a number of States parties, participating in the Nuclear Suppliers Group, to grant an India-specific exception to the full-scope safeguards requirement in the Nuclear Suppliers Group's export control guidelines, based on certain non-proliferation commitments and actions of India (as outlined in IAEA document INFCIRC/734). The Group continues to look to India to honour these commitments in full, noting that Governments participating in the Nuclear Suppliers Group have agreed to consult through regular channels on matters connected with the implementation of all aspects of the decision of the Nuclear Suppliers Group. The Group reiterates the importance it attaches to universalization of the Treaty.

12. Notwithstanding that decision, the Vienna Group reaffirms the important principle that new supply arrangements for the transfer of source or special fissionable material, or equipment or material specially 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 the IAEA full-scope safeguards and internationally legally binding commitments not to acquire nuclear weapons or other nuclear explosive devices. The Group urges those supplier States that have not yet done so to require the fulfilment of such conditions without delay.

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

14. The Vienna Group notes that article III of the Treaty is designed to detect and prevent the diversion of nuclear material, equipment and technology. This relates to diversion not only at the State level, but also to individuals or subnational groups. The Group affirms, therefore, that transfers of nuclear material, sensitive equipment or technology should take place only 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 re-transfers.

15. While the responsibility for establishing and implementing such a system rests with the concerned State, supplying States parties have the responsibility for seeking assurance that such a system is in place in the recipient State as a necessary precondition for their receiving nuclear supplies.
