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NON-PROLIFERATION TREATY REVIEW CONFERENCE

BACKGROUND GUIDE 2015

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NATIONAL MODEL UNITED NATIONS





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Dear Delegates,

We are pleased to welcome you to the 2015 National Model United Nations New York Conference (NMUN•NY), and particularly to the Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons! This year's NPT Review Conference staff is: Directors Dominika Ziemczonek (Conference A) and Lauren Shaw (Conference B), and Assistant Directors Tobias Holl (Conference A) and Philipp Schroeder (Conference B). Dominika holds a B.A. in International Relations and Political Science from the University of British Columbia, and is currently completing her Master's in International Affairs at the Graduate Institute of International and Development Studies. This is her fourth year on staff at NMUN•NY. Lauren received her M.P.P. from Georgetown University and is an associate at Basis Policy Research, where she performs research related to U.S. education policy. This is her fourth year on staff at NMUN•NY. Tobias holds a B.A. in Political Science from the Ludwig-Maximilians-University Munich, where he is currently pursuing Master's degrees in Political Science, Sociology, and Philosophy. Philipp holds a M.Sc. in European Public Policy from University College London and a B.A. in Political Science and Communication Science from Ludwig-Maximilians-University Munich, where he is currently working as research assistant at the Chair of International Relations.

The topics under discussion for the NPT Review Conference are:

- I. Advancing Technical Cooperation in the Peaceful Use of Nuclear Energy
- II. Article X and Measures to Address Withdrawal from the NPT
- III. Denuclearization of the Korean Peninsula

The NPT Review Conference plays a unique role within the United Nations, as an opportunity for States Parties to the NPT to discuss disarmament, non-proliferation, and peaceful uses of nuclear technology. Its near-universal membership allows the Conference to promote consensus on key international issues related to both development and peace and security.

We hope you will find this Background Guide useful as it serves to introduce you to the topics for this committee. It is not meant to replace further research and we highly encourage you explore in depth your countries' policies, as well as use the Annotated Bibliography and Bibliography to further your knowledge on these topics. In preparation for the conference, each delegation will be submitting a [position paper](#). Please take note of the [NMUN policies](#) on the website and in the [Delegate Preparation Guide](#) regarding plagiarism, codes of conduct/dress code/sexual harassment, awards philosophy/evaluation method, etc. Adherence to these guidelines is mandatory.

The [NMUN Rules of Procedure](#) are available to download from the NMUN website. This document includes the long and short form of the rules, as well as an explanatory narrative and example script of the flow of procedure. It is thus an essential instrument in preparing for the conference, and a reference during committee

If you have any questions concerning your preparation for the Committee or the Conference itself, the Under-Secretaries-General for Peace and Security, María Luisa Ortega (Conference A) and Allison Chandler (Conference B). You can reach either USG by contacting them at: usg.ps@nmun.org.

We wish you all the best for your preparations and look forward to seeing you at the conference!

Sincerely,

Conference A

Dominika Ziemczonek, *Director*
Tobias Holl, *Assistant Director*

Conference B

Lauren Shaw, *Director*
Philipp Schroeder, *Assistant Director*



Table of Contents

Abbreviations	3
United Nations System at NMUN·NY	4
Committee Overview	5
Introduction.....	5
History.....	5
Mandate.....	6
Governance, Structure, and Membership.....	7
Functions and Powers.....	8
Current Priorities.....	9
Recent Sessions.....	9
Conclusion.....	9
Annotated Bibliography.....	11
Bibliography.....	11
I. Advancing Technical Cooperation in the Peaceful Use of Nuclear Energy	14
Introduction.....	14
International and Regional Frameworks.....	15
Role of the International System.....	16
Benefits from Peaceful Nuclear Energy Production.....	17
Securitizing Nuclear Energy Facilities and Transfer.....	18
Promoting Technology Transfer to Ensure Access to Nuclear Technology.....	20
Conclusion.....	21
Further Research.....	21
Annotated Bibliography.....	22
Bibliography.....	23
II. Article X and Measures to Address Withdrawal from the NPT	28
Introduction.....	28
International and Regional Framework.....	28
Role of the International System.....	31
The Withdrawal of the Democratic People’s Republic of Korea (DPRK).....	32
The Debate over Article X.....	33
Conclusion.....	35
Further Research.....	35
Annotated Bibliography.....	36
Bibliography.....	37
III. Denuclearization of the Korean Peninsula	42
Introduction.....	42
International and Regional Framework.....	42
Role of the International System.....	46
Cross-cutting Issues.....	48
Recent Developments.....	49
Conclusion.....	51
Further Research.....	51
Annotated Bibliography.....	52
Bibliography.....	53

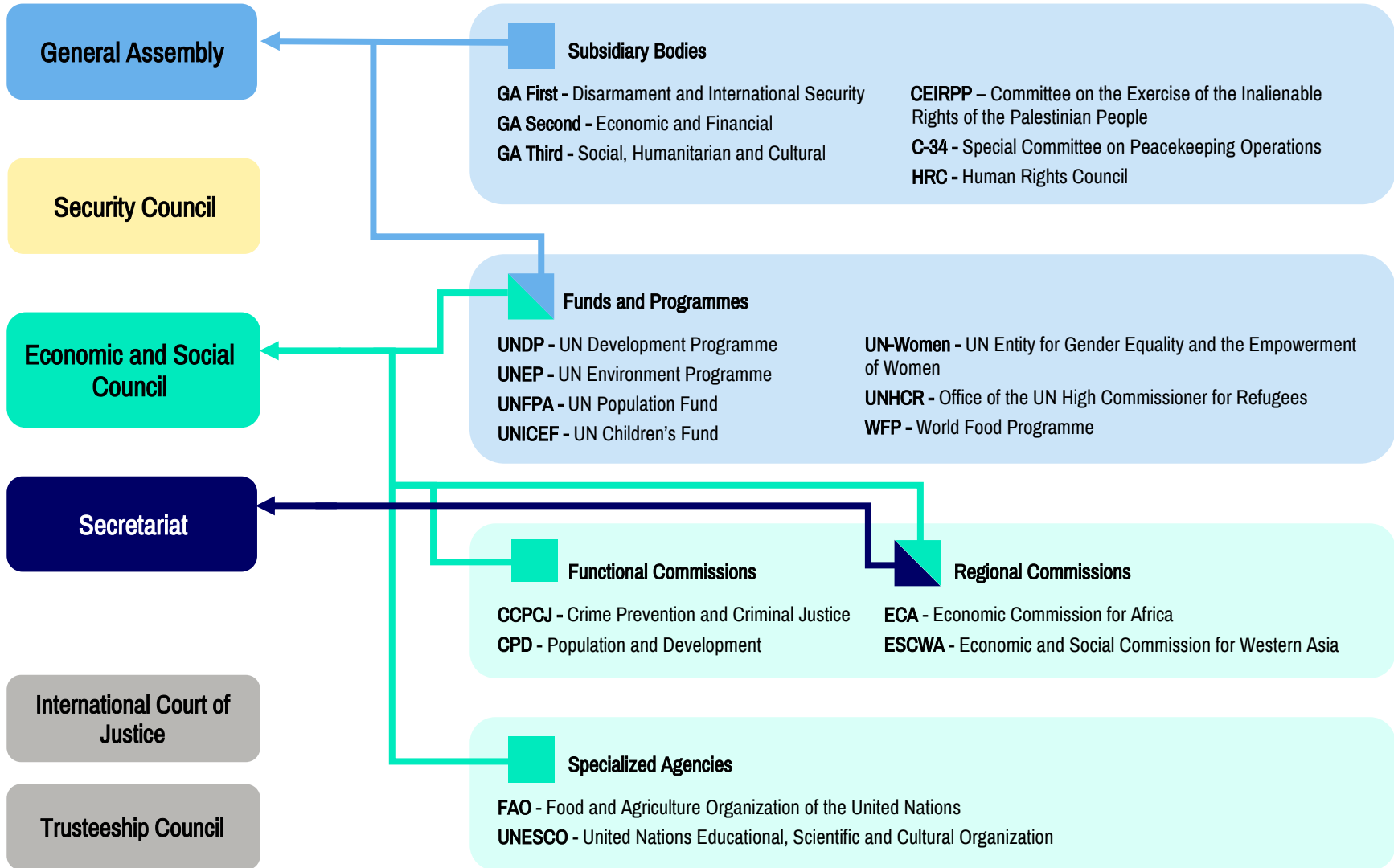


Abbreviations

ANSN	Asian Nuclear Safety Network
BTWC	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction
CTBT	Comprehensive Nuclear-Test-Ban Treaty
CWC	Chemical Weapons Convention
DPRK	Democratic People's Republic of Korea
GA	General Assembly
GHG	Greenhouse gas
IAEA	International Atomic Energy Agency
ICJ	International Court of Justice
IFNEC	International Framework for Nuclear Energy Cooperation
KCNA	Korean Central News Agency
LDC	Least-developed countries
MDG	Millennium Development Goal
NEA	Nuclear Energy Agency
NNWS	Non-Nuclear Weapon States
NPT	Non-Proliferation Treaty
NTI	Nuclear Threat Initiative
NWFZ	Nuclear weapons free zones
NWS	Nuclear weapons states
PrepCom	Preparatory Committee
PTBT	Treaty Banning Nuclear Weapon Tests In The Atmosphere, In Outer Space And Under Water
RCW	Reaching Critical Will
RevCon	Review Conference
ROK	Republic of Korea
SCR	Security Council Report
START	Strategic Arms Reduction Treaty
UN	United Nations
UNODA	UN Office for Disarmament Affairs
VCLT	Vienna Convention on the Law of Treaties
WILPF	Women's International League for Peace and Freedom
WMD	Weapons of mass destruction
WNA	World Nuclear Association

United Nations System at NMUN·NY

This diagram illustrates the United Nations (UN) System simulated at NMUN·NY. It shows where each committee “sits” within the system, to help understand the reportage and relationships between the entities. Examine the diagram alongside the Committee Overview to gain a clear picture of the committee's position, purpose and powers within the UN System.



Committee Overview

“Be bold. Think big. For it yields big results. And that is why, again, we need people like you. People who understand that the world is over-armed and that peace is under-funded. People who understand that the time for change is now.. We will rid the world of nuclear weapons. And when we do, it will be because of people like you.”¹

Introduction

The Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) is held every five years, with all States Parties to the NPT invited to discuss the implementation of the treaty.² With near-universal membership, the Conference is also a primary forum for discussion of other issues related to nuclear weapons and technology, including disarmament, non-proliferation, nuclear energy, nuclear weapons free zones (NWFZ), NPT compliance, and possible changes to the NPT.³ The Conference is preceded by three two-week Preparatory Committee meetings, which outline the body of work to be discussed at the Conference, generate statements and working papers, and address administrative matters such as the selection of the president of the Conference.⁴

The 2015 Review Conference follows a successful 2010 Review Conference, which resulted in an outcome document that was adopted by consensus.⁵ However, many of the 64 action items from the 2010 outcome document have not been implemented, which will likely be a source of debate in 2015.⁶ The third and final meeting of the Preparatory Committee held from 28 April – 9 May 2014 at the United Nations (UN) headquarters, failed to produce a consensus report on recommendations for the Conference.⁷ The ongoing disagreements on key issues, including a possible NWFZ in the Middle East and the pace of disarmament in the nuclear weapons states (NWS), will require delegates to work hard to achieve consensus at the Conference.⁸

History

The first proposal for international regulation of nuclear material was made by the United States in 1946.⁹ The Baruch Plan, presented to the UN, suggested that the United States turn over its nuclear material, including weapons, to a new UN body, and that no countries would be allowed to possess nuclear weapons.¹⁰ However, the plan failed due to opposition from the Soviet Union.¹¹ In 1953, United States President Dwight Eisenhower proposed the negotiation of a treaty to control nuclear activities, which resulted in the negotiation of the Statute of the International Atomic Energy Agency (IAEA), establishing an international organization for the purpose of inspecting nuclear facilities and providing technical assistance to countries seeking to use nuclear energy.¹² Following the Cuban Missile Crisis of 1962, the United States and Soviet Union began negotiations on nuclear weapons testing, followed by serious negotiations on the draft text of the NPT, ultimately agreeing on the final text

Formal Name: Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)

Short Name: NPT Review Conference

Type: Conference of States Parties to a legally binding treaty

Outcome: Report

Majority: Consensus or 2/3 majority

Frequency: Every five years

Attendees: States Parties to the NPT, the International Atomic Energy Agency, officials from the United Nations, and representatives from civil society organizations

¹ Ban, *Secretary-General's remarks to an international conference "For a Nuclear Free, Peaceful, Just and Sustainable World,"* 2010.

² Reaching Critical Will, *Nuclear Non-Proliferation Treaty*, 2014.

³ Ibid.

⁴ Collina, et al., *Stage Set for 2015 NPT Review Conference*, 2014.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Bunn & Rhinelander, *Looking Back: The Nuclear Nonproliferation Treaty Then and Now*, 2008.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

in 1968.¹³ The NPT opened for signature that year, with the United States, Soviet Union, and United Kingdom acting as depositories.¹⁴

The NPT entered into force in 1970, making its three pillars of disarmament, non-proliferation, and the promotion of peaceful uses of nuclear energy the foundation of international law regarding nuclear weapons and technology.¹⁵ The treaty also stipulated that a conference of States Parties would be held five years after the treaty entered into force, and every five years thereafter.¹⁶ The first Review Conference took place in 1975 in Geneva, Switzerland.¹⁷ Despite disagreements regarding the lack of a timeline for nuclear disarmament, the States Parties adopted a Final Declaration by consensus, setting the stage for diplomacy in future years.¹⁸ The Final Declaration declared a “strong common interest in averting the further proliferation of nuclear weapons” and recommended greater attention and support be given to the IAEA’s safeguards regime.¹⁹ This document provided the foundation for recommendations made at future Review Conferences.²⁰

Article X of the NPT states that 25 years after the treaty’s entry into force, “a conference shall be convened to decide whether the Treaty shall continue in force indefinitely or shall be extended for an additional fixed period or periods,” with the decision to be adopted by majority vote.²¹ This conference, held in 1995 in New York City, was historic for many reasons.²² It was the first Review Conference held since the dissolution of the Soviet Union, and also the first conference attended by all five nuclear weapon states (NWS) identified in the NPT.²³ Between the 1990 and 1995 conferences, 38 Member States acceded to the treaty, including France, China, Ukraine, Belarus, Kazakhstan, and South Africa.²⁴ Although the conference failed to adopt a Final Declaration on the review of the treaty, it did agree to extend the NPT indefinitely.²⁵ This marked the beginning of the post-Cold War Review Conferences, with the focus shifting from Mutually Assured Destruction to asymmetric nuclear warfare, as well as the near-universality of the NPT.²⁶

Mandate

The Review Conference is established by article VIII of the NPT, which states that conferences of the States Parties will be held every five years to “in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realized.”²⁷ The Review Conferences are preceded by a Preparatory Committee, which meets annually for two weeks in the three years leading up to the conference.²⁸ The Review Conference produces a final outcome document, which outlines the current state of NPT implementation and lists action items for the following five years.²⁹ The final outcome documents are not legally binding and are not always fully implemented.³⁰ For example, the 2010 Final Document called for a conference to be held in 2012 to discuss the establishment of an NWFZ in the Middle East, which never occurred.³¹ However, the final documents are adopted by consensus, indicating that the States Parties support the action items and desire implementation.³²

¹³ Bunn and Rhinelander, *Looking Back: The Nuclear Nonproliferation Treaty Then and Now*, 2008.

¹⁴ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, Art. 9.

¹⁵ UN Office for Disarmament Affairs, *Treaty on the Non-Proliferation of Nuclear Weapons*, 2014.

¹⁶ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, Art. 8.

¹⁷ *Ibid.*

¹⁸ Reaching Critical Will, *History of the NPT 1975-1995*, 2014.

¹⁹ Review Conference of the Parties to the Treaty on the NPT, *Final Document (NPT/CONF/35/I)*, 1975.

²⁰ Reaching Critical Will, *History of the NPT 1975-1995*, 2014.

²¹ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, Art. 10.

²² Reaching Critical Will, *History of the NPT 1975-1995*, 2014.

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, Art. 8.

²⁸ Reaching Critical Will, *Nuclear Non-Proliferation Treaty*, 2014.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ Mukhatzhanova, *Rough Seas Ahead: Issues for the 2015 NPT Review Conference*, 2014.

³² Reaching Critical Will, *Nuclear Non-Proliferation Treaty*, 2014.

Governance, Structure, and Membership

The Review Conferences are attended by the States Parties to the NPT. Today, the NPT has near-universal membership, with only the Democratic People's Republic of Korea, India, Israel, Pakistan, and South Sudan not acceding to the treaty or participating in the Review Conferences.³³ The Democratic People's Republic of Korea is a former party to the treaty, having withdrawn in 2003.³⁴ Israel, India, and Pakistan have never been party to the treaty and are unlikely to become States Parties because their possession of nuclear weapons would immediately put them in violation of article II.³⁵ The non-participation of these four states with nuclear weapons has been a point of contention with other states during negotiations at Review Conferences.³⁶

The Review Conference is overseen by the president, typically named at the final Preparatory Committee meeting in the year before the conference.³⁷ The president for 2015 has not yet been named, but based upon the rotating membership schedule will be from Africa.³⁸ The Preparatory Committee is responsible for beginning the process of assessing the implementation of the NPT and generating working papers, as well as addressing administrative matters like the budget.³⁹ The Committee also serves as a forum for States Parties to share their individual progress reports, outlining the steps they have taken to fulfill their treaty obligations.⁴⁰ Although the Third Preparatory Committee to the 2015 Review Conference failed to adopt a set of recommendations for the Conference, it did produce a final report addressing a number of administrative matters.⁴¹ The report determined that invitations to the Review Conference will be sent to the Secretary-General of the UN and the Director General of the IAEA, as well as to other observers from relevant civil society organizations.⁴² It also determined that there will be three Main Committees at the Conference, with States Parties allowed to participate in all three.⁴³ Main Committee I, to be chaired by Enrique Román-Morey of Peru, will discuss non-proliferation, disarmament, and security assurances.⁴⁴ Main Committee II, to be chaired by Cornel Feruta of Romania, will discuss non-proliferation, safeguards, and NWFZ.⁴⁵ Main Committee III, to be chaired by Peter Woolcott of Australia, will discuss peaceful nuclear technology and other aspects of the treaty.⁴⁶ The committee chairs each chaired a session of the Preparatory Committee and represent the Group of Non-Aligned States Parties to the Treaty, the Group of Eastern European States, and the Western Group, respectively.⁴⁷ Finally, the report established the contribution schedule for the financing of the Conference by the States Parties, with the amounts represented as the percentage of the total cost to be contributed by each state.⁴⁸

At the Review Conference, negotiations typically center on the same key issues discussed at the Preparatory Committee.⁴⁹ While the working groups often form based on regional blocs, it is also common for the NWS to band together against accusations that they have abandoned nuclear disarmament.⁵⁰ As the Review Conference continues, the president and committee chairs typically take on the role of mediator, finding areas of agreement between the

³³ UN Office of Disarmament Affairs, *Status of the Treaty*, 2014.

³⁴ Arms Control Association, *Chronology of U.S.-North Korean Nuclear and Missile Diplomacy*, 2014.

³⁵ Miller and Scheinman, *Israel, India, and Pakistan: Engaging the Non-NPT States in the Nonproliferation Regime*, 2003.

³⁶ *Ibid.*

³⁷ Collina, et al., *Stage Set for 2015 NPT Review Conference*, 2014.

³⁸ *Ibid.*

³⁹ UN Third Session of the Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Background Information*, 2014.

⁴⁰ Collina, et al., *Stage Set for 2015 NPT Review Conference*, 2014.

⁴¹ UN Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Final Report of the Preparatory Committee for the 2015 Review Conference of the Parties to the NPT (NPT/CONF.2015/1)*, 2014.

⁴² *Ibid.*, p. 9.

⁴³ *Ibid.*, p. 43.

⁴⁴ *Ibid.*, pp. 7, 55.

⁴⁵ *Ibid.*, pp. 7, 55-56.

⁴⁶ *Ibid.*, pp. 7, 56.

⁴⁷ *Ibid.*, p. 7.

⁴⁸ *Ibid.*, p. 47.

⁴⁹ Reaching Critical Will, *History of the NPT 1975-1995*, 2014.

⁵⁰ Johnson, *Politics and Protection: Why the 2005 NPT Review Conference Failed*, 2005.

various groups and negotiating compromises.⁵¹ Because the final document is adopted by consensus, the success of the Review Conference hinges on the ability of the States Parties to compromise.⁵²

The Review Conference is a separate entity from the UN and the IAEA, with all States Parties to the NPT invited to attend.⁵³ However, due to the similar membership of the three groups, and the more regular meeting schedules and increased operational capacity of the UN and the IAEA, the Conference works with these organizations to implement its outcome documents.⁵⁴ As the organization statutorily responsible for monitoring many aspects of NPT implementation through its safeguards system and its focus on the peaceful uses of nuclear technology, the IAEA is one of many organizations that attend the Review Conference, in addition to other inter-governmental and non-governmental organizations focused on nuclear disarmament and technology.⁵⁵ The States Parties also work closely with the UN Office for Disarmament Affairs (UNODA), particularly its Weapons of Mass Destruction branch, which provides substantive and secretariat support.⁵⁶

Functions and Powers

The primary function of the NPT Review Conference is to review the status of the implementation of the treaty and to develop action plans for the next five years.⁵⁷ The conference is an important forum for discussion because the IAEA does not have universal membership, with many States Parties to the NPT not attending IAEA meetings.⁵⁸ While all States Parties to the NPT are part of the UN General Assembly, consensus is often hampered in that body by the presence of non-States Parties to the NPT that possess nuclear weapons.⁵⁹ The Review Conference does not have an operations arm, and relies upon the States Parties, the IAEA, UNODA, and other UN agencies to carry out the actions in its outcome documents.⁶⁰ The outcome documents consist of a summary of the program of work considered during the conference, as well as a list of recommended actions, and their justification, for the States Parties and various international and civil society organizations.⁶¹ These recommended actions typically focus on the three pillars of the NPT but often address other policy areas such as regional cooperation, proposing specific steps to address issues like the denuclearization of the Middle East.⁶² However, the NPT places no restrictions on the subjects to be addressed in the outcome document, or the types of recommendations made, so future Review Conferences could expand to promoting action on other issue areas, such as technical assistance for countries developing research programs for nuclear applications in medicine and agriculture.⁶³ The most well-known of the outcome documents is the “13 Practical Steps on Non-proliferation and Disarmament,” adopted by consensus at the 2000 Review Conference, which outlined a plan for disarmament and verification of nuclear weapons.⁶⁴ The document also stressed the importance of additional treaties, including the Comprehensive Nuclear-Test-Ban Treaty, the Fissile Material Cut-off Treaty, and bilateral agreements like Strategic Arms Reduction Treaty (START) II, START III, and the Anti-Ballistic Missile Treaty.⁶⁵ Although the steps have not been fully implemented, they are often referenced by Member States and in civil society outside the context of Review Conferences, showing the conference’s role in establishing international norms around nuclear issues.⁶⁶

The NPT has not been modified since it was opened for signature in 1968.⁶⁷ Article VIII of the NPT states that any party may propose an amendment, with a consideration conference to be held if at least one-third of the States

⁵¹ Johnson, *Politics and Protection: Why the 2005 NPT Review Conference Failed*, 2005.

⁵² Mukhatzhanova, *Rough Seas Ahead: Issues for the 2015 NPT Review Conference*, 2014.

⁵³ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, Art. 8.

⁵⁴ International Atomic Energy Agency, *IAEA and the NPT: Key Roles*, 2014.

⁵⁵ Ibid; Reaching Critical Will, *2014 NPT Preparatory Committee Briefing Book*, 2014.

⁵⁶ Nuclear Threat Initiative, *United Nations Office of Disarmament Affairs*, 2014.

⁵⁷ International Atomic Energy Agency, *IAEA and the NPT: NPT Review Conferences*, 2014.

⁵⁸ International Atomic Energy Agency, *Member States of the IAEA*, 2014.

⁵⁹ UN Department of Public Information, *Capping Intensive Disarmament Committee Session, General Assembly Adopts 53 Texts on Wide Range of Pressing International Security Concerns*, 2013.

⁶⁰ Choubey, *Understanding the 2010 NPT Review Conference*, 2010.

⁶¹ Reaching Critical Will, *2014 NPT Preparatory Committee Briefing Book*, 2014.

⁶² Ibid.

⁶³ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, Art. 8.

⁶⁴ Arms Control Association, *2000 NPT Review Conference Final Document*, 2000.

⁶⁵ Ibid.

⁶⁶ Squassoni, *Grading Progress on 13 Steps Toward Disarmament*, 2009.

⁶⁷ Nonproliferation Policy Education Center, *Reviewing the Nuclear Nonproliferation Treaty*, 2010.

Parties request one after reviewing the suggested text.⁶⁸ Although this process has never occurred, it is possible that an amendment could be proposed or drafted at a Review Conference.⁶⁹ However, the text of the treaty indicates that a separate conference would have to be held to consider the amendment, should the one-third threshold be met.⁷⁰ Because all five NWS, as well as all members of the Board of Governors of the IAEA, must approve potential amendments, analysts believe that any proposed amendments to the NPT are unlikely to be adopted.⁷¹

Current Priorities

The recent meetings of the Preparatory Committee have established many of the current priorities for the 2015 Review Conference, as well as producing a number of national reports and working papers.⁷² Key areas of focus at these meetings included nuclear disarmament, regional cooperation, expansion of the peaceful use of nuclear technology, and treaty universality.⁷³ There has also been significant discussion about outstanding items from the 2010 action plan, notably the slow pace of disarmament by the NWS, and the failure to carry out the section of the plan related to the establishment of a NWFZ in the Middle East.⁷⁴ It is highly likely that these topics will be considered major priorities at the Review Conference in 2015, and the lack of common recommendations at the Third Preparatory Committee indicates that delegates will have to work hard to achieve compromise and adopt an outcome document.⁷⁵

Recent Sessions

The most recent session of the Review Conference, held in 2010, resulted in the adoption of a final outcome document by consensus.⁷⁶ This document included an action plan with 64 steps, which States Parties were to carry out before the next conference in 2015.⁷⁷ More recently, there have been three meetings of the Preparatory Committee in advance of the 2015 Review Conference.⁷⁸ The first meeting, held 30 April - 11 May 2012 in Vienna, largely consisted of discussion on the implementation of the 2010 action plan, as well as some substantive proposals from States Parties for consideration in 2015.⁷⁹ The second meeting, held 22 April - 3 May 2013 in Geneva, resulted in a number of national reports and working papers, again with much of the focus on the progress of implementing the 2010 action plan.⁸⁰ The most recent meeting, held 28 April - 9 May 2014 at the UN headquarters in New York, continued to produce national reports and working papers, but failed to perform a number of tasks expected at the final Preparatory Committee meeting, such as electing a President of the Review Conference and adopting a set of common recommendations.⁸¹ However, the chair of the meeting, Enrique Román-Morey, stated that the consensus is still possible in 2015.⁸² In lieu of the common recommendations, Mr. Román-Morey submitted his own working paper of 17 specific recommendations to the 2015 NPT Review Conference.⁸³

Conclusion

⁶⁸ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, Art 8.

⁶⁹ Meier, *News Analysis: NPT Preparatory Meeting Scores Some Success*, 2007.

⁷⁰ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, Art 8.

⁷¹ Nonproliferation Policy Education Center, *Reviewing the Nuclear Nonproliferation Treaty*, 2010.

⁷² UN Third Session of the Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Official Documents*, 2014.

⁷³ *Ibid.*

⁷⁴ Collina, et al., *Stage Set for 2015 NPT Review Conference*, 2014.

⁷⁵ *Ibid.*

⁷⁶ Arms Control Association, *2000 NPT Review Conference Final Document*, 2000.

⁷⁷ *Ibid.*

⁷⁸ UN Office for Disarmament Affairs, *NPT Review Conferences and Their Preparatory Committees*, 2014.

⁷⁹ UN Information Service, *The Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons held constructive deliberations during its first session*, 2012.

⁸⁰ UN Second Session of the Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Official Documents*, 2013.

⁸¹ Collina, et al., *Stage Set for 2015 NPT Review Conference*, 2014.

⁸² UN Web TV, *Enrique Roman-Morey (Peru) on the 2015 Nuclear Proliferation Treaty Review Conference - Press Conference*, 2014.

⁸³ Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Recommendations by the Chair to the 2015 NPT Review Conference (NPT/CONF.2015/PC.III/WP.46)*, 2014.



The NPT Review Conference is the international body charged with bringing together all the States Parties of the NPT to discuss implementation and future actions. The 2015 Review Conference will consider many important issues in its deliberations, including the implementation of the 2010 action plan, nuclear disarmament, and the peaceful uses of nuclear technology, while working to achieve consensus and adopt a final document by acclamation. This final document will be the foundation of NPT implementation for the following five years and will affect actions taken by the States Parties, the IAEA, and the UN. Despite ongoing contention on certain topics, such as the pace of disarmament, past successes indicate that delegates will be able to work together to achieve consensus at the 2015 Review Conference.



Annotated Bibliography

Collina, T., L. Garrison, & D. Horner. (2014). *Stage Set for 2015 NPT Review Conference*. Arms Control Association. Retrieved 12 July 2014 from: https://www.armscontrol.org/act/2014_06/News/Stage-Set-for-2015-NPT-Review-Conference

This article provides an excellent summary of the current status of preparations for the 2015 NPT Review Conference. It discusses the actions that have been taken, including the work of the Preparatory Committee at its three meetings. It also provides analysis on actions that have yet to be taken, including the appointment of the President of the Conference. The article helps give context to the official documents of the Conference.

Reaching Critical Will. (2014). *2014 NPT Preparatory Committee Briefing Book*. Retrieved 12 August 2014 from: http://www.reachingcriticalwill.org/images/documents/Disarmament-fore/npt/prepcom14/RCW_Briefing%20Book_NPT.pdf

Civil society organizations attend the NPT Review Conference as observers and often play a role in promoting certain outcomes. This briefing book, produced by Reaching Critical Will, summarizes the policy positions of one such organization on the issues likely to be discussed in 2015. It also provides an independent assessment of the status of the NPT and the 2010 action plan, which will be useful for delegates as they research the current state of implementation.

Treaty on the Non-Proliferation of Nuclear Weapons. (1968). Retrieved 12 July 2014 from: <http://www.un.org/disarmament/WMD/Nuclear/NPT.shtml>

As the founding document of international law related to nuclear weapons, non-proliferation, and disarmament, delegates should have a thorough understanding of the NPT. The NPT established the nuclear disarmament regime upon its entry into force in 1970 and continues to promote disarmament, non-proliferation, and the peaceful uses of nuclear technology. With near-universal ratification, the NPT is the most-ratified arms control treaty and continues to play an important role in the UN system.

United Nations, Third Session of the Preparatory Committee for the 2015 Review Conference of the Parties to the NPT. (2014). *Official Documents* [Website]. Retrieved 12 July 2014 from: <http://www.un.org/disarmament/WMD/Nuclear/NPT2015/PrepCom2014/documents.shtml>

The third session of the Preparatory Committee, held 28 April – 9 May 2014, resulted in many national statements and working papers. These documents, archived online, show the wide array of topics and action items being discussed by the Committee. They will help delegates understand the positions and key issues of their assigned country and regional bloc, and provide a foundation for the work of the Conference.

United Nations, Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. (2014, 8 May). *Recommendations by the Chair to the 2015 NPT Review Conference (NPT/CONF.2015/PC.III/WP.46)*. Retrieved 19 September 2014 from: http://www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2015/PC.III/WP.46

Although the final meeting of the Preparatory Committee did not result in a set of common recommendations for the 2015 Review Conference, the meeting chair, Enrique Román-Morey, submitted a working paper reflecting the work of the meeting. This document contains 17 specific recommendations from Mr. Román-Morey to the Review Conference. According to the explanatory note, the paper reflects Mr. Román-Morey's assessment of recommendations that could have been adopted by the Preparatory Committee given additional time.

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I. Advancing Technical Cooperation in the Peaceful Use of Nuclear Energy

“I believe we can look ahead with confidence and optimism to the future of nuclear power in the 21st century. Nuclear power will make a significant and growing contribution to sustainable development in the coming decades.”⁸⁴

Introduction

The Non-Proliferation Treaty (NPT) is designed to prevent the proliferation of nuclear weapons.⁸⁵ At the same time, the NPT also ensure the right for all States Parties to develop research, production and use of nuclear energy for peaceful purposes as one of the fundamental pillars of the Treaty.⁸⁶ While States Parties to the Treaty have the right to pursue peaceful nuclear development, not all of them have access to the technology and resources necessary to achieve nuclear development.⁸⁷ The NPT asserts that developing countries, in particular, should be given special consideration in the peaceful development of nuclear energy, while complying with the safeguards put forth in the Treaty.⁸⁸ Given the energy-related challenges facing many developing countries and the benefit nuclear energy could provide in supporting clean energy production and advancements in health care and medicine, there is an increasing need for greater technical cooperation to facilitate nuclear development for peaceful pursuits.⁸⁹ The 2015 NPT Preparatory Committee (PrepCom) highlighted the importance of facilitated nuclear development through increased technical cooperation and collaboration with the International Atomic Energy Agency (IAEA).⁹⁰ The IAEA is the organization designated to contribute to NPT-related issues, supervising the safeguards system foreseen in the NPT and is responsible for capacity-building and technical assistance for developing nuclear programs.⁹¹

There are several existing barriers to greater technical cooperation in pursuing peaceful nuclear development.⁹² Through the 2015 NPT PrepCom meetings, States Parties have demonstrated a desire to increase access to nuclear technology.⁹³ Firstly, it is important to note that the NPT cannot increase technical cooperation in pursuit of nuclear energy independently. Actions taken on behalf of the NPT should be considerate of the existing arrangements of the Treaty itself and the IAEA and cooperation between them.⁹⁴ While some states and civil society organizations eschew nuclear power for its risks, nuclear technology can play a hugely important role in protecting the environment, human health, and energy production.⁹⁵ In order to realize these benefits, and to increase technical cooperation to these ends, concerns regarding physical security of nuclear materials and adherence to existing safeguards must also be addressed.⁹⁶ In addition to safety and security considerations, determining the legitimacy of peaceful nuclear programs should also be considered.⁹⁷ Finally, there are further challenges in the execution and long-term sustainability of existing technical cooperation projects.⁹⁸ To increase and improve technical cooperation for nuclear development, the NPT Review Conference is encouraged to evaluate the financial stability and long-term sustainability of current projects.⁹⁹

⁸⁴ International Atomic Energy Agency, *Nuclear Power Remains Important Energy Option for Many Countries, IAEA Ministerial Conference Concludes*, 2013.

⁸⁵ *Treaty on the Non-Proliferation of Nuclear Weapons* 1968.

⁸⁶ *Ibid.*, art. IV.

⁸⁷ Barretto & Cetto, *IAEA Technical Cooperation & the NPT?* 2005.

⁸⁸ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, art. IV.

⁸⁹ Preparatory Committee for the 2015 Conference of the Parties to the NPT, *The inalienable right to develop research, production, and uses of nuclear energy for peaceful purposes*, 2014.

⁹⁰ *Ibid.*

⁹¹ Barretto & Cetto, *IAEA Technical Cooperation & the NPT?* 2005.

⁹² Gaillard et al., *Priority setting in technical cooperation: expanding the demand for knowledge-based development*, 2006.

⁹³ Preparatory Committee for the 2015 Conference of the Parties to the NPT, *The inalienable right to develop research, production, and uses of nuclear energy for peaceful purposes*, 2014.

⁹⁴ International Atomic Energy Agency, *The Structure and Content of Agreements between the Agency in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons*, 1972.

⁹⁵ International Atomic Energy Agency, *Sustainable Development and Nuclear Power*, p. 11.

⁹⁶ Preparatory Committee for the 2015 Conference of the Parties to the NPT, *Nuclear security*, 2013.

⁹⁷ *Ibid.*

⁹⁸ Gaillard et al., *Priority setting in technical cooperation: expanding the demand for knowledge-based development*, 2006.

⁹⁹ *Ibid.*

The guide will first examine the international and regional frameworks that governs the pursuit of peaceful nuclear development, and highlight the key actors in the international system relevant to this issue. The guide will then address the utility of nuclear energy for promoting sustainable development. There will also be a discussion of the challenges surrounding nuclear security and increasing accessibility of technical cooperation, and how these challenges might be overcome. Finally, the conclusion will summarize key issues addressed in this topic, and provide delegates with some questions to guide further research.

International and Regional Frameworks

The primary document ensuring the right of states to develop nuclear energy for peaceful purposes is the *Non-Proliferation Treaty* (1968).¹⁰⁰ Article IV of the NPT clearly states that, “nothing in this 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.”¹⁰¹ Given the potential of nuclear energy to support development, the NPT highlights the particular needs of developing states in regards to development of nuclear energy.¹⁰² Article III of the NPT also sets forth clear limitations and restrictions on the acquisition and development of nuclear technology, but the Treaty is clear that these safeguards should not be utilized to prevent States Parties from developing nuclear energy for peaceful uses.¹⁰³ The 2010 Review Conference (RevCon) reaffirmed that in order for states to exercise their right to peaceful nuclear development, technical assistance must be prioritized to allow states to advance nuclear energy, while adhering to NPT safeguards.¹⁰⁴

In addition to the NPT, there are other international instruments that guide states in their pursuit of nuclear energy for peaceful purposes. The *Convention on Nuclear Safety* (1994) requires the Contracting Parties to implement particular safety standards for all nuclear facilities.¹⁰⁵ As an IAEA convention, the safeguards contained within the Convention are particularly important for Contracting Parties wishing to develop or expand nuclear energy production.¹⁰⁶ As of April 2014, the *Convention on Nuclear Safety* counts 77 parties and another 65 signatories.¹⁰⁷ Another important international instrument is the International Framework for Nuclear Energy Cooperation (IFNEC) adopted in 2010 and formally known as the Global Nuclear Energy Partnership.¹⁰⁸ The IFNEC is an international partnership comprising 32 participating states that look to promote the expansion of peaceful nuclear production.¹⁰⁹ The IFNEC also monitors its partners’ adherence to security and safety protocols and safeguards in the pursuit of safe and efficient nuclear development.¹¹⁰

There are also a number of regional arrangements governing the use and transfer of nuclear energy and nuclear materials. The Nuclear Energy Agency (NEA), originally established in 1958, is an entity within the OECD that promotes international cooperation and exchange to ensure the safe and responsible development of peaceful nuclear technologies.¹¹¹ Similarly, the Asian Nuclear Safety Network (ANSN) was launched in 2002 and is an Asian regional organization, working to strengthen regional cooperation as a means of bolstering nuclear safety and security mechanisms.¹¹² Within the European Union, the production and peaceful use of atomic energy is governed by the *Treaty establishing the European Atomic Energy Community* (Euratom).¹¹³ Today, the realization of the aims proclaimed in the Euratom treaty rests with the European Commission and within the European Commission, the Directorate-General for Energy is responsible for developing policies on nuclear energy.¹¹⁴

¹⁰⁰ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, art. IV.

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*

¹⁰³ *Ibid.*, art. III.

¹⁰⁴ 2010 Review Conference of the Parties to the NPT, *Final Document*, 2010, art. 48-51.

¹⁰⁵ International Atomic Energy Agency, *Convention on Nuclear Safety*, 1994.

¹⁰⁶ International Atomic Energy Agency, *Convention on Nuclear Safety: Sixth Review Meeting*.

¹⁰⁷ International Atomic Energy Agency, *Nuclear Safety & Security, Convention on Nuclear Safety*.

¹⁰⁸ The International Framework for Nuclear Energy Cooperation, *History*.

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*

¹¹¹ Nuclear Energy Agency, *The NEA Mission*.

¹¹² Asian Nuclear Safety Network, *Asian Nuclear Security Network*.

¹¹³ *Treaty establishing the European Atomic Energy Community*, 1957.

¹¹⁴ European Commission, *Nuclear Energy*.

In accordance with art. III.1 of the NPT, each state that has ratified the NPT is under an obligation to conclude a safeguards agreement with the IAEA that regulates how the IAEA will be able to inspect states' nuclear energy programs to ensure that proliferation does not take place.¹¹⁵ In negotiating and concluding these agreements, the IAEA is guided by an Informational Circular entitled "The Structure and Content of Agreements between the Agency in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons" (1972), which outlines the basis of inter-organization cooperation. Under this Circular, states entering into a safeguards agreement with the IAEA are held to cooperate with the Agency to oversee technology transfers and monitor adherence to existing guidelines and other regulatory mechanisms.¹¹⁶ The Circular is explicit that while the IAEA is empowered to assess the implementation of safeguards in States Parties to the NPT, it may not in any way impede the progress in peaceful nuclear development.¹¹⁷ Practically, the involvement of the IAEA in providing technical cooperation for peaceful nuclear development is not stipulated in the NPT.¹¹⁸ However, because the IAEA is the largest and most prominent international organization governing the use of nuclear energy, the Agency remains the central organization that supports the Treaty's assertion for the right to peaceful nuclear development.¹¹⁹

Within the IAEA, the main mechanism for nuclear cooperation is the IAEA's Technical Cooperation Programme.¹²⁰ The Programme assists countries to develop their nuclear capacity, and specifically to use nuclear technology to fulfill social and economic development goals.¹²¹ It endeavors to alleviate technical inequalities by creating multilateral cooperative partnerships between Member States.¹²² The program also offers consistent, reliable information on security and capacity-building to guide policy decisions and national program implementation.¹²³ In addition to information services and technical support, the Programme also provides financial contributions, particularly for the improvement and maintenance of safety infrastructure.¹²⁴

Role of the International System

The NPT operates largely independently from the rest of the United Nations (UN) system, but IAEA is the organization designated to ensure compliance with the NPT. The IAEA, in turn, cooperates closely with the UN, as well as with UN offices and related organizations.¹²⁵ The regular NPT Review Conferences, which are prepared by the Preparatory Commission, also allow for other groups, including local and regional organizations and civil society actors, to participate in these meetings and conferences.¹²⁶

NPT Preparatory Committee and Review Conference

The NPT PrepCom and RevCon are two central mechanisms that review the implementation of the NPT.¹²⁷ The PrepCom assesses and discusses current challenges of adherence to the NPT, which are then further examined and decided on by States Parties to the NPT during the RevCons that take place every five years.¹²⁸ The outcome documents of the NPT PrepComs have demonstrated an increased focus on the peaceful use of nuclear energy, and the ways that the NPT and the IAEA might facilitate greater development of these nuclear technologies.¹²⁹ The next Review Conference will take place in 2015.¹³⁰ It is the ninth RevCon since the first one held in 1975 and represents the 20-year anniversary of the Treaty's unlimited extension accorded in 1995.¹³¹

¹¹⁵ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, art. III.1.

¹¹⁶ International Atomic Energy Agency, *The Structure and Content of Agreements between the Agency in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/153 (Corr.))*, 1972.

¹¹⁷ *Ibid.*, para. 4

¹¹⁸ Barretto & Cetto, *IAEA Technical Cooperation & the NPT?* 2005.

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

¹²¹ Preparatory Committee for the 2015 Conference of the Parties to the NPT, *Efforts to strengthen nuclear security*, 2014, p. 2

¹²² International Atomic Energy Agency, *Technical Cooperation Programme*.

¹²³ *Ibid.*

¹²⁴ *Ibid.*

¹²⁵ International Atomic Energy Agency, *Relationship with the United Nations*.

¹²⁶ Reaching Critical Will, *Guide to 2010*, 2010, p. 8.

¹²⁷ Reaching Critical Will, *Nuclear Non-Proliferation Treaty*.

¹²⁸ *Ibid.*

¹²⁹ Preparatory Committee for the 2015 Conference of the Parties to the NPT, *The inalienable right to develop research, production, and uses of nuclear energy for peaceful purposes*, 2014.

¹³⁰ International Atomic Energy Agency, *NPT Review Conference*.

¹³¹ *Ibid.*

United Nations involvement

The UN has adopted several resolutions on the use of nuclear power and technology, particularly in support of economic and social development.¹³² The United Nations General Assembly (GA) adopted resolution 32/50 on 8 December 1977, asserting the importance of nuclear technology in supporting economic and social development.¹³³ The resolution also states that greater international cooperation should be undertaken to ensure that peaceful nuclear technological development adheres to the guidelines and standards set by the IAEA.¹³⁴ Security Council resolution 1747 (2007) on “Non-Proliferation” reinforced the importance of the NPT, and that adherence to the Treaty provisions is needed to maintain international peace and security.¹³⁵ Moreover, the resolution reaffirmed that Member States developing peaceful nuclear energy must adhere to the IAEA guidelines for nuclear development, facilitated by the technical assistance of other Member States.¹³⁶ The Security Council also adopted resolution 1887 (2009) on “Nuclear non-proliferation and nuclear disarmament,” encouraging states to remove barriers to access of nuclear technologies and engage in greater cooperation to support peaceful nuclear development.¹³⁷ The resolution highlighted the role of the IAEA in assisting and monitoring the implementation of these safeguards to ensure the compliance of States Parties to the NPT.¹³⁸ As the primary international organization for nuclear cooperation, IAEA has regional cooperative agreements in Africa, Latin American and the Caribbean, Asia and the Pacific, and Asian Arab countries.¹³⁹ These agreements are designed to strengthen IAEA support in the development of peaceful nuclear programs in these regions.¹⁴⁰ In 2011, the Agency adopted the *IAEA Action Plan on Nuclear Safety*, which outlines the criteria to ensure the stability and security of nuclear facilities.¹⁴¹

The United Nations Office for Disarmament Affairs (UNODA) also monitors NPT-related matters and seeks to promote nuclear disarmament as a way to advance development.¹⁴² Primarily, the UNODA provides support to Member States in their disarmament processes and provides information on current improvements in nuclear disarmament and existing nuclear capabilities of Member States.¹⁴³

Civil society organizations

Many states promote and pursue nuclear energy production as a means of sustainable development, but civil society is divided on the relative benefits and risks of nuclear energy.¹⁴⁴ The World Nuclear Association (WNA) promotes nuclear energy development as a clean and safe energy alternative by facilitating interaction between partners on technical collaboration, as well as partnering with the global energy industry.¹⁴⁵ There are many other organizations, including Greenpeace and Reaching Critical Will, claiming that nuclear energy is not only dangerous for humans, but also harmful to the environment.¹⁴⁶ Reaching Critical Will points out that the potential effects of nuclear accidents are so great as to outweigh any potential benefits they may have for development and energy production.¹⁴⁷ Greenpeace notes that there is no efficient way to dispose of nuclear waste, which can contaminate wild and plant life, and remain radioactive for thousands of years.¹⁴⁸

Benefits from Peaceful Nuclear Energy Production

¹³² UN General Assembly, *Peaceful use of nuclear energy for economic and social development (A/RES/32/50)*, 1977.

¹³³ *Ibid.*

¹³⁴ *Ibid.*

¹³⁵ UN Security Council, *Non-proliferation (S/RES/1747 (2007))*, 2007.

¹³⁶ *Ibid.*

¹³⁷ UN Security Council, *Maintenance of international peace and security: Nuclear non-proliferation and nuclear disarmament (S/RES/1887 (2009))*, 2009.

¹³⁸ *Ibid.*

¹³⁹ International Atomic Energy Agency, *Regional/Cooperative Agreements*.

¹⁴⁰ *Ibid.*

¹⁴¹ International Atomic Energy Agency, *IAEA Action Plan on Nuclear Safety*, 2011.

¹⁴² United Nations Office for Disarmament Affairs, *UNODA Vision Statement*.

¹⁴³ United Nations Office for Disarmament Affairs, *Nuclear Weapons*.

¹⁴⁴ Greenpeace International, *Nuclear Waste*.

¹⁴⁵ World Nuclear Association, *Sustainable Energy*; World Nuclear Association, *Our Mission*.

¹⁴⁶ Greenpeace International, *Nuclear Waste*.

¹⁴⁷ Reaching Critical Will, *Costs, Risks, and Myths of Nuclear Power*, 2011, p. 26.

¹⁴⁸ Greenpeace International, *Nuclear Waste*.

Nuclear energy is commonly developed and used as an alternative to other sources of energy, such as fossil fuels.¹⁴⁹ Approximately 16% of the world's energy comes from nuclear power supplied by more than 70 countries worldwide.¹⁵⁰ While 16% is a significant amount, nuclear energy is concentrated in particular regions.¹⁵¹ In fact, the majority of nuclear energy is consumed mainly by Europe.¹⁵² Meanwhile, developing countries continue to struggle with resource prices and greenhouse gas emissions from unsustainable energy sources.¹⁵³ Millennium Development Goal (MDG) 7 states that the international community should aim to reduce greenhouse gas emissions produced by fossil fuel consumption.¹⁵⁴ In this regard, nuclear energy provides an alternative that is not only greenhouse gas (GHG) neutral, but is also more abundant and cost-efficient than fossil fuels.¹⁵⁵ Nuclear energy is also more energy dense than other forms of energy, making it far more efficient to produce and use than other fuels, such as coal or oil.¹⁵⁶

Nuclear energy may also be used to support advancements in technology used to treat or diagnose illnesses.¹⁵⁷ Indirectly, using nuclear power instead of fossil fuels minimizes the health effects of greenhouse gas pollution, minimizing respiratory problems among other health afflictions that result from greenhouse gases.¹⁵⁸ More directly, nuclear energy is used in many aspects of modern medicine, particularly in diagnostic imaging processes.¹⁵⁹ For example, the global rise in non-communicable diseases such as cardiovascular disease and cancer, which is cited as one of the greatest public health challenges facing the international community, has augmented demand for diagnostic imaging equipment.¹⁶⁰ However, while the number of nuclear medicine centers has increased, and diagnostic tests have been performed within developing countries, many regions are still drastically underserved.¹⁶¹ The IAEA is coordinating technical cooperation and capacity-building projects to expand the presence and capacity of these centers, but there are still challenges in meeting current needs in nuclear medicine.¹⁶²

Nuclear energy can also facilitate job creation and sustainable development.¹⁶³ In addition to reducing GHG emissions, nuclear energy production would likely make electricity more accessible and affordable and give the country a lower-cost, self-sufficient energy source.¹⁶⁴ The pursuit of nuclear energy production will also provide new opportunities for human capital development and capacity-building.¹⁶⁵ The need for more skilled individuals to operate new nuclear plants may, in turn, stimulate increased investment, research and development.¹⁶⁶

Securitizing Nuclear Energy Facilities and Transfer

Ensuring peaceful uses of nuclear materials

While there are clear benefits to the development and use of nuclear power, the potential for nuclear materials to be weaponized is a prevalent concern.¹⁶⁷ The NPT is clear that non-nuclear armed States Parties are prohibited from developing nuclear arsenals, but the pursuit of nuclear energy for peaceful uses can, and has in the past, raised

¹⁴⁹ Schlumberger Excellence in Education Development, *Alternative Energy Sources: Nuclear Power*.

¹⁵⁰ Ibid.

¹⁵¹ Nuclear Energy Institute, *World Statistics: Nuclear Energy Around the World*.

¹⁵² Ibid.

¹⁵³ World Commission on Environment and Development, *Our Common Future: Report of the World Commission on Environment and Development (A/42/427)*, 1987, art. 42

¹⁵⁴ United Nations, *Goal 7: Ensure Environmental Sustainability*.

¹⁵⁵ Nuclear Energy Institute, *World Statistics: Nuclear Energy Around the World*.

¹⁵⁶ International Atomic Energy Agency, *Sustainable Development and Nuclear Power*, p. 9.

¹⁵⁷ International Atomic Energy Agency, *Nuclear Medicine*.

¹⁵⁸ World Health Organization, *Ambient (Outdoor) Air Quality and Health*.

¹⁵⁹ International Atomic Energy Agency, *Nuclear Medicine*.

¹⁶⁰ Dondi et al., *Trends in Nuclear Medicine in Developing Countries*, 2011, p. 16.

¹⁶¹ Ibid., p. 17.

¹⁶² Ibid., p. 23.

¹⁶³ Nuclear Energy Agency, Organization for Economic Co-Operation and Development, *Nuclear Energy in a Sustainable Development Perspective*, 2000, p. 7.

¹⁶⁴ International Atomic Energy Agency, *Sustainable Development and Nuclear Power*, p. 11.

¹⁶⁵ Nuclear Energy Agency, Organization for Economic Co-Operation and Development, *Nuclear Energy in a Sustainable Development Perspective*, 2000, p. 29.

¹⁶⁶ Ibid.

¹⁶⁷ Wolfsthal, *Assessing Proposals on the International Nuclear Fuel Cycle*, 2004, p. 3.

doubts about the possibility of States Parties creating nuclear weapons.¹⁶⁸ Currently, the IAEA is tasked with monitoring and evaluating civil nuclear programs to assess their adherence to the NPT provisions.¹⁶⁹ The NPT safeguards agreement is meant to ensure that nuclear materials for peaceful purposes are not diverted to support the production of nuclear weapons.¹⁷⁰ Meanwhile, evaluations conducted by the IAEA assess the quantity of uranium and fissile materials as well as discrepancies in inventory and transparency in accounting processes.¹⁷¹ The organization is also empowered to investigate nuclear plants that are otherwise hidden or undeclared.¹⁷²

One of the most prevalent concerns about the illegitimate use of peaceful nuclear resources concerns the fuel cycle and uranium enrichment.¹⁷³ The fuel cycle is the process by which nuclear materials, including uranium, are processed and enriched.¹⁷⁴ Low-enriched uranium is typically used for peaceful nuclear energy projects while nuclear weapons are produced using high-enriched uranium.¹⁷⁵ The latter is typically not used in commercial reactors; however, there are some research purposes for using high-enriched uranium.¹⁷⁶ The IAEA has determined that a Member State with full fuel cycle capability would be able to create a nuclear weapon within months.¹⁷⁷ Given this possibility, the national ownership of enrichment has raised concerns that peaceful nuclear programs may lead to nuclear weapons development.¹⁷⁸ Furthermore, national ownership of these facilities also makes it more difficult to adequately monitor and determine the type of uranium being produced.¹⁷⁹ Some States Parties to the NPT have suggested that uranium enrichment plants be internationalized and jointly held to facilitate assessment and review processes, and prevent states from developing nuclear weapons.¹⁸⁰ The outcome document of the 2010 RevCon emphasized the importance of continued discussion and investigation in the creation of multilateral fuel cycle facilities.¹⁸¹

Safeguarding nuclear materials

Recent nuclear accidents, such as the one at Fukushima-Daiichi nuclear power plant in Japan, have also reinforced the importance of proper oversight and security procedures.¹⁸² The incident at Fukushima has raised concerns over the risks of pursuing nuclear energy, and the absence of proper maintenance and emergency safeguards.¹⁸³ In response, several working papers were drafted during the 2013 and 2014 PrepCom meetings, focusing on improving safety measures in nuclear plants.¹⁸⁴ Such working papers suggested that the 2015 RevCon should emphasize the importance for State Parties to accede and adhere to existing regulations and further develop legally binding standards as necessary.¹⁸⁵ The report also highlights that although the primary responsibility of nuclear safety lies within each Member State, increased international cooperation is needed in order to ensure safety standards are properly adhered to.¹⁸⁶

States Parties to the NPT have also raised concerns about the physical security of nuclear materials and the possibility of being stolen and used by non-state actors.¹⁸⁷ A non-state actor may be defined as “an organized

¹⁶⁸ Ibid.

¹⁶⁹ United Nations, *Global Issues: Atomic Energy*.

¹⁷⁰ International Atomic Energy Agency, *The Structure and Content of Agreements between the Agency in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons*, 1972, p. 28.

¹⁷¹ Ibid., p. 32.

¹⁷² Ibid., p. 30.

¹⁷³ Wolfsthal, *Assessing Proposals on the International Nuclear Fuel Cycle*, 2004, p. 3

¹⁷⁴ Nuclear Energy Institute, *Fact Sheets: Preventing the Proliferation of Nuclear Materials*.

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

¹⁷⁷ Wolfsthal, *Assessing Proposals on the International Nuclear Fuel Cycle*, 2004, p. 1.

¹⁷⁸ Ibid., p. 2.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

¹⁸¹ 2010 Review Conference of the Parties to the NPT, *Final Document*, 2010, para. 57.

¹⁸² McGrath, *Fukushima leak is ‘much worse than we were led to believe,’* 2013.

¹⁸³ Acronym Institute for Disarmament Diplomacy, *In the Wake of Fukushima: The NPT and Nuclear Energy*.

¹⁸⁴ Preparatory Committee for the 2015 Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. *Addressing “Vienna issues”: the Comprehensive Nuclear-Test-Ban Treaty, compliance and verification, export controls, cooperation in the peaceful uses of nuclear energy, nuclear safety, and nuclear security*, 2014, p. 6.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid., p. 2.

¹⁸⁷ Preparatory Committee for the 2015 Conference of the Parties to the NPT, *Nuclear security*, 2013, p. 1

political actor not directly connected to the state but pursuing aims that affect vital state interests.¹⁸⁸ This includes civil society, criminal groups, and terrorist organizations.¹⁸⁹ The PrepComs for 2015 emphasized that States Parties should apply IAEA security recommendations, especially minimizing stocks of enriched uranium to decrease the risk of theft.¹⁹⁰ Greater transparency would also facilitate the assessment of existing security protocols while safety and security protocols could be better integrated by creating joint priorities when establishing new nuclear sites.¹⁹¹

Promoting Technology Transfer to Ensure Access to Nuclear Technology

While many States Parties to the NPT may wish to utilize nuclear energy, not all of them have the resources and technology to develop nuclear programs.¹⁹² Recognizing this, the last NPT RevCon assembly recommended the increase of technical assistance and cooperation to facilitate nuclear development.¹⁹³ The IAEA Technical Assistance Program requires that non-nuclear armed developing states be prioritized and that plans for nuclear development be detailed, explicit and transparent.¹⁹⁴ While the Technical Cooperation Programme does focus on assisting developing states, there are concerns that the resources and capacity of the IAEA are insufficient to meet the needs of Member States aiming to develop and strengthen their nuclear capabilities.¹⁹⁵ In addition to expanding existing programs and activities, the IAEA could benefit from increased investment in material and personnel resources.¹⁹⁶ In the 2014 PrepCom, States Parties recommended that all states with adequate resources should increase technological, scientific and material assistance to developing states.¹⁹⁷ Additionally, IAEA resolution 58/12 (2014) on “Strengthening of the Agency’s technical cooperation activities” highlights existing gaps in technical cooperation, and calls states to use critical assessments and best practices to guide future cooperation.¹⁹⁸

In some cases, technology transfer and capacity-building are only partially pursued.¹⁹⁹ When there is, a lack of qualified personnel within states developing nuclear programs, oversight and managerial responsibilities are outsourced to qualified individuals outside of that particular state.²⁰⁰ While this practice is reasonable and effective during the initial start-up and transition periods, increased investment in building and creating human capacity and relevant infrastructure at the national and regional levels is key for achieving a sustainable and self-reliant domestic nuclear program.²⁰¹

The adherence to safeguards and security concerns surrounding the development of nuclear facilities continue to pose challenges for the expansion of nuclear energy production.²⁰² As States Parties continue to cooperate on nuclear development, the expansion of these programs requires greater supervision, and more safeguard mechanisms to govern the growing range of activities being undertaken.²⁰³ There is also some disagreement over whether full fuel cycles should be pursued by every state wishing to do so. While the creation of full fuel cycles raises security concerns about the possibility of nuclear weapons development, other states believe that preventing them from developing a full fuel cycle avoids nuclear programs from being sustainable and completely self-reliant.²⁰⁴ While the IAEA also assists developing states in managing financial risks and investments into new nuclear programs, the cost

¹⁸⁸ Pearlman and Cunningham, *Nonstate Actors, Fragmentation and Conflict Processes*, 2011.

¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*

¹⁹¹ *Ibid.*, p. 3.

¹⁹² Barretto & Cetto, *IAEA Technical Cooperation & the NPT?*, 2005.

¹⁹³ 2010 Review Conference of the Parties to the NPT, *Final Document*, 2010, p. 6.

¹⁹⁴ International Atomic Energy Agency, *The Revised Guiding Principles and General Operating Rules to Govern the Provision of Technical Assistance by the Agency*, 1979.

¹⁹⁵ Barretto & Cetto, *IAEA Technical Cooperation & the NPT?*, 2005.

¹⁹⁶ Preparatory Committee for the 2015 Conference of the Parties to the NPT, *The inalienable right to develop research, production, and uses of nuclear energy for peaceful purposes*, 2014, p. 5.

¹⁹⁷ *Ibid.*

¹⁹⁸ International Atomic Energy Agency, *Strengthening of the Agency’s technical cooperation programme (GC(58)/RES/12)*, 2014.

¹⁹⁹ Gaillard et al., *Priority setting in technical cooperation: expanding the demand for knowledge-based development*, 2006, p. 2.

²⁰⁰ *Ibid.*, p. 10.

²⁰¹ *Ibid.*, p. 2.

²⁰² International Atomic Energy Agency, *IAEA Department of Safeguards: Long-Term Strategic Plan (2012-2013)*, p. 2.

²⁰³ *Ibid.*

²⁰⁴ Preparatory Committee for the 2015 Conference of the Parties to the NPT, *The inalienable right to develop research, production, and uses of nuclear energy for peaceful purposes*, 2014, p. 3.

is still substantial, and may be out of reach for many.²⁰⁵ More reasonable financing options for the least-developed countries (LDC) will be important in expanding access to nuclear technologies.²⁰⁶

Conclusion

The NPT clearly enshrines States Parties' right to develop nuclear energy for peaceful purposes; however, the development of these technologies is not without significant barriers.²⁰⁷ Despite existing technical cooperation agreements, lack of adequate resources and continued reliance on outside support limits such burgeoning programs, thwarting their independent sustainability.²⁰⁸ In addition to these challenges, security and safety risks of nuclear development and proliferation pose implementation challenges to developing states wishing to safely pursue these technologies.²⁰⁹ In order to increase access to nuclear energy while minimizing risk, the effectiveness and application of safeguards and security measures should be discussed.²¹⁰ Finally and taking into consideration the high demand for nuclear energy, greater cooperation must be enforced between the IAEA and other international organizations, as well as engagement with regional organizations, that are currently building capacity in these areas.²¹¹

Further Research

In preparing for this topic, delegates should consider existing political barriers to strengthening security and safety mechanisms, and the means to overcoming them. Is the establishment of multilateral uranium enrichment plants feasible? While current technical cooperation mechanisms are providing support to States Parties to the NPT, how can these programs be improved to provide assistance consistent with increasing demand? Is it feasible to expand access to nuclear energy without significantly raising the risk of nuclear proliferation? How will peaceful nuclear energy development contribute to meeting current energy challenges? What are the current gaps in safety and security mechanisms? How might these be mitigated to encourage nuclear energy development?

²⁰⁵ International Atomic Energy Agency, *Supporting New Nuclear Power Programmes*, 2013, p. 8.

²⁰⁶ Ibid.

²⁰⁷ Preparatory Committee for the 2015 Conference of the Parties to the NPT, *The inalienable right to develop research, production, and uses of nuclear energy for peaceful purposes*, 2014.

²⁰⁸ Gaillard et al., *Priority setting in technical cooperation: expanding the demand for knowledge-based development*, 2006, p. 10.

²⁰⁹ Preparatory Committee for the 2015 Conference of the Parties to the NPT, *Addressing "Vienna issues": the Comprehensive Nuclear-Test-Ban Treaty, compliance and verification, export controls, cooperation in the peaceful uses of nuclear energy, nuclear safety, and nuclear security*, 2014, p. 6.

²¹⁰ Gaillard et al., *Priority setting in technical cooperation: expanding the demand for knowledge-based development*, 2006, p. 2.

²¹¹ International Atomic Energy Agency, *Technical Cooperation Report for 2012*, 2013, p. 16.

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2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. (2010). *Final Document*. Retrieved 11 July 2014 from:

[http://www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2010/50%20\(VOL.I](http://www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2010/50%20(VOL.I)

Technical cooperation and the right for states to develop nuclear energy for peaceful uses was discussed extensively at the last NPT RevCon in 2010. This outcome document reinforces the possible benefits of nuclear energy, while highlighting existing barriers to access. The precise presentation and discussion of these issues will also expose delegates to the way in which these problems have been discussed up to this point, providing both context, as well as opportunities for innovation.

Barretto, P. & A. Cetto. (2005). "IAEA Technical Cooperation & the NPT?" *IAEA Bulletin* 46/2. Retrieved 2 August 2014 from: http://www.iaea.org/Publications/Magazines/Bulletin/Bull462/technical_cooperation.html

This article written for the IAEA outlines some of the basic principles of NPT and IAEA technical cooperation in a simple and straightforward way. The article also highlights details about different technical arrangements, and the work that goes into them. Particularly, the article discusses the financing and funding of technical cooperation, security and safety concerns, and the changing needs and priorities of states seeking nuclear development. Finally, delegates may find the assessment of this cooperative arrangement, including benefits and challenges, particularly helpful in determining high-priority needs.

Evans, G. & R. Thakur, eds. (2013). *Nuclear Weapons: The State of Play*. Canberra: Centre for Nuclear Non-Proliferation and Disarmament. Retrieved 10 July 2014 from: <https://cnnd.anu.edu.au/files/2013/state-of-play-report/Nuclear-Weapons-The-State-of-Play.pdf>

This report combines all of the relevant legal and normative frameworks surrounding nuclear non-proliferation, nuclear security, and the peaceful uses of nuclear energy. It provides a clear timeline in the development of policies surrounding the peaceful uses of nuclear energy, and explains the relationship between the NPT and IAEA in facilitating this process. The report also provides an assessment of the main risks of nuclear development, including security and accountability, and provides guidance on how these problems might be addressed.

International Atomic Energy Agency. (1972). *The Structure and Content of Agreements between the Agency in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/153 (Corr.))*. Retrieved 10 July 2014 from: <http://www.iaea.org/Publications/Documents/Infcircs/Others/infcirc153.pdf>

Given the extensive cooperation required between the IAEA and NPT States Parties on this topic, this document – an Informational Circular for the IAEA – is critical as it outlines the basis for safeguard agreements that were or are to be concluded between the IAEA and NPT States Parties. Specifically, this document summarizes the application and non-application of safeguards for nuclear materials for peaceful uses. The Circular stipulates requirements for national and international accounting of nuclear materials, which may be relevant for delegates when discussing the possible internationalization of full fuel cycle facilities. It also presents information on the development of objective safeguards, and sets requirements for international transfers, which is particularly important when determining recommendations for technological transfers.

International Atomic Energy Agency. (2013). *Technical Cooperation Report for 2012*. Retrieved 12 July 2014 from: http://www.iaea.org/About/Policy/GC/GC57/GC57InfDocuments/English/gc57inf-4_en.pdf

This report by the Director General of the IAEA delivers an assessment of current technical cooperation projects and programs facilitated by the agency. The assessment examines the strengths and best practices of the current technical cooperation programs, and also identifies remaining gaps and challenges that should be addressed. In addition to the assessment, the report also details mid-term measures and ongoing efforts to improve the technical cooperation program on the ground, which may provide delegates a basis on which to create long-term plans. This document also highlights how many industries and fields benefit from these technology cooperation arrangements.

Preparatory Committee for the 2015 Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. (2014). *Efforts to strengthen nuclear security*. Retrieved 11 August 2014 from: http://www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2015/PC.III/WP.34

This document from the 2014 PrepCom meeting highlights some of the most pressing security concerns, some of which are thwarting nuclear expansion. The working paper provides some examples of the execution of recent summit recommendations that maybe be useful for delegates to further examine as case studies. The document also features some recommendations and proposals based on existing regional nuclear arrangements. Though these examples are region-specific, delegates can use these proposals as a starting point to creating more universal security mechanisms.

Preparatory Committee for the 2015 Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. (2014). *The inalienable right to develop research, production, and uses of nuclear energy for peaceful purposes*. Retrieved 11 July 2014 from:

http://www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2015/PC.III/WP.4

This draft produced by the 2014 PrepCom on the right to develop nuclear energy for peaceful uses highlights the importance of nuclear energy, and recommends best practices for ongoing development and capacity-building to facilitate peaceful nuclear development. The draft emphasizes the importance of cooperation with, and adoption of IAEA standards governing technology transfers. It also highlights some central challenges associated with nuclear development, including security concerns, and provides recommendations to address these challenges. This document touches base on the most pressing issues dealing with peaceful nuclear energy development, as determined by NPT States Parties.

Treaty on the Non-Proliferation of Nuclear Weapons. (1968). Retrieved 11 July 2014 from:

<http://www.un.org/disarmament/WMD/Nuclear/NPTtext.shtml>

The text of the Non-Proliferation Treaty is absolutely critical as it clearly provides for a right to development of nuclear energy for peaceful purposes. Delegates should familiarize themselves with the stipulations of the NPT, especially as it relates to the IAEA's role in ensuring the NPT's implementation. The treaty clarifies that no state should be prevented from pursuing the development of nuclear technologies for peaceful purposes, and encourages them to cooperate to ensure equal access to nuclear technologies for peaceful uses.

Wolfsthal, J. (2004.). *Assessing Proposals on the International Nuclear Fuel Cycle*. Weapons of Mass Destruction Commission. Retrieved 10 August 2014 from:

<http://www.un.org/disarmament/education/wmdcommission/files/No11.pdf>

Though this report is dated, the essential aspects of the document are still relevant for helping delegates understand the basic mechanics of the full fuel cycle, and the ramifications it has for security and proliferation. The report also explains the two main viewpoints on the fuel cycle: those who favor national and regional ownership, and those recommending multilateral, international ownership. Finally, the report helps delegates consider the options regarding fuel cycles by providing analysis on the possible costs and benefits of each option.

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II. Article X and Measures to Address Withdrawal from the NPT

Introduction

The 1968 *Treaty on the Non-Proliferation of Nuclear Weapons* (NPT) is widely regarded as the cornerstone of international efforts to control the spread of nuclear weapons and as the legal and normative foundation of the nuclear non-proliferation regime.²¹² Yet, notwithstanding the paramount importance of the NPT, the withdrawal provision in the Treaty, established in article X, has to be considered as a potential serious weakness.²¹³

Article X of the NPT reads as follows:

“Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.”²¹⁴

On 10 January 2003, the Democratic People’s Republic of Korea (DPRK) invoked this clause and unilaterally announced its intention to withdraw from the NPT.²¹⁵ This step represented the first and only time that a State Party to the NPT had withdrawn from the Treaty.²¹⁶ The announcement sparked a debate over how States Parties to the NPT and the international community shall respond to such decisions.²¹⁷ It also boosted political and academic deliberations over the wider implications of withdrawals from arms control treaties since such decisions may affect regional and international stability, undermine the credibility and universality of treaties, and, ultimately, hinder international peace and security.²¹⁸

The right to withdraw from international agreements is generally recognized in the international law of treaties; according to article 54 of the *Vienna Convention on the Law of Treaties* (1969), a party to a treaty may withdraw from any treaty in accordance with that treaty, or if all other parties to the treaty consent to the withdrawal.²¹⁹ In the case of the NPT, the treaty’s technical complexities, the ambiguity of the treaty’s language, and a lacking universally agreed to interpretation of article X have sparked a discussion on the conditions under which the NPT permits the withdrawal of a State Party.

This guide firstly introduces the topic in the context of the wider international background, including a number of general legal aspects pertaining to withdrawal from international treaties. Secondly, the guide addresses the DPRK’s withdrawal from the NPT to demonstrate the shortcomings of article X and the need to further strengthen NPT regulatory mechanisms. Finally, the guide discusses in-depth article X, along with different proposals debated at the NPT Review Conferences, on how to cope with NPT withdrawals.²²⁰

International and Regional Framework

The nuclear non-proliferation regime

Following the 1995 NPT Review Conference agreement to extend the treaty indefinitely, and with a near-universal membership base, the NPT today represents the legal foundation for the international regime to prevent the spread of

²¹² Joyner & Roscini, *Withdrawal from non-proliferation treaties*, 2012, p. 164; Asada, *Arms control law in crisis?*, 2004, p. 331; Grotto.

²¹³ Carlson, *Withdrawal from the NPT: Consequences for IAEA Safeguards*, 2009, p. 3.

²¹⁴ *Treaty on the Non-Proliferation of Nuclear Weapons (NPT)*, 1968, art. X.1.

²¹⁵ IAEA, *Factsheet on DPRK Nuclear Safeguards*, 2010.

²¹⁶ Ahlström, *Withdrawal from arms control treaties*, 2004, p. 763.

²¹⁷ *Ibid*; Goldblat, *Should the right to withdraw from the NPT be withdrawn?*, 2009, p. 1; Bunn & Rhineland, *The Right to Withdraw from the NPT: Article X is Not Unconditional*, 2005.

²¹⁸ *Ibid*.

²¹⁹ *Vienna Convention on the Law of Treaties*, 1969, art. 54.

²²⁰ 2010 Review Conference of the Parties to the NPT, *Final Document (NPT/CONF.2010/50 (Vol. 1))*, 2010.

nuclear weapons.²²¹ It remains the most adhered to treaty to prohibit the use and availability of weapons of mass destruction (WMD).²²² Despite a comparatively short treaty text of only 11 articles, the NPT contains the only legally binding commitment to nuclear disarmament, making it the most robust element of the nuclear non-proliferation regime.²²³ Under the Treaty, Nuclear Weapon States (NWS) agree not to assist Non-Nuclear Weapon States (NNWS) in acquiring nuclear weapons, while NNWS agree to submit all of their peaceful nuclear activities to international safeguards.²²⁴

Other important contributions to the nuclear non-proliferation regime include the 1963 *Treaty Banning Nuclear Weapon Tests In The Atmosphere, In Outer Space And Under Water* (PTBT), and the *Comprehensive Nuclear-Test-Ban Treaty* (CTBT), which was signed in 1996 but has yet to enter into force.²²⁵ Furthermore, the establishment of Nuclear-Weapon-Free Zones (NWFZ) as regional approaches to non-proliferation has also served to consolidate international disarmament norms.²²⁶ Prime examples for NWFZs are the *Treaty of Tlatelolco* (1968), the *Raratonga Treaty* (1985), the *Bangkok Treaty* (1995), and the *Pelindaba Treaty* (1996).²²⁷ More recently, the *International Convention for the Suppression of Acts of Nuclear Terrorism* (2005) criminalizes acts of nuclear terrorism and promotes judicial cooperation and assistance for States Parties through the IAEA.

During the 2014 Group of Seven (G7) summit in Brussels, the *G7 Declaration on Non-Proliferation and Disarmament for 2014* was adopted.²²⁸ In this document, the G7 governments recognized the right of withdrawal provided by the NPT, but urgently called for specified modalities and safeguards.²²⁹ The document explicitly emphasized the UN Security Council's responsibility to address state withdrawals and called upon the 2015 NPT Review Conference to improve the legal framework regarding state withdrawals.²³⁰

International law and withdrawal from international agreements

Under international law, the maintenance, and termination of treaties are governed by a set of legal rules commonly known as “the law of treaties.”²³¹ These legal rules are codified in the 1969 *Vienna Convention on the Law of Treaties* (VCLT).²³² Although the Convention was opened for signature on May 1969, it did not enter into force until January 1980.²³³ As the VCLT has no retroactive effect, it cannot be formally applied to the NPT, which entered into force in 1970.²³⁴ However, the provisions of the VCLT are generally considered as part of customary international law.²³⁵ Rules of customary international law are such rules that are accepted by states as law and that are evidenced by a general practice.²³⁶ The International Court of Justice (ICJ) has explicitly applied the VCLT as customary international law in the assessment of the termination and suspension of treaties.²³⁷

A central element of the law of treaties, as codified in the VCLT, is that obligations stemming from binding agreements must be honored by the parties in good faith: *pacta sunt servanda*.²³⁸ Article 42 (2) of the VCLT stipulates that treaty terminations and withdrawals may only take place in accordance with provisions of the treaty in

²²¹ Joyner & Roscini, *Withdrawal from non-proliferation treaties*, 2012, p. 164; Asada, *Arms control law in crisis?*, 2004, p. 331; Bunn, *The Nuclear Nonproliferation Treaty: History and Current Problems*, 2003; Nielsen, *Interpreting the withdrawal clause of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT): options within the 2010 NPT review cycle*, 2008, p. 110.

²²² Ibid.

²²³ Grotto, *Non-Proliferation Treaty (1968)*, 2009, p. 2; Ahlström, *Withdrawal from arms control treaties*, 2004, p. 763.

²²⁴ Grotto, *Non-Proliferation Treaty (1968)*, 2009, pp. 1 - 4.

²²⁵ UNODA, *Nuclear Weapons*.

²²⁶ UNODA, *Nuclear-Weapon-Free-Zones*.

²²⁷ Carlson, *Withdrawal from the NPT: Consequences for IAEA Safeguards*, 2009, p. 5.

²²⁸ G7, *G7 Declaration on Non-Proliferation and Disarmament for 2014*.

²²⁹ Ibid., p. 2.

²³⁰ Ibid.

²³¹ Ahlström, *Withdrawal from arms control treaties*, 2004, p. 763.

²³² Goldblat, *Should the right to withdraw from the NPT be withdrawn?*, 2009, p. 2.

²³³ *Vienna Convention on the Law of Treaties*, 1969.

²³⁴ Goldblat, *Should the right to withdraw from the NPT be withdrawn?*, 2009, p. 2.

²³⁵ Fleck, *State responsibilities of termination of or withdrawal from non-proliferation treaties*, 2012, p. 252.

²³⁶ Statute of the International Court of Justice, 1945, art. 38 (1) (b).

²³⁷ International Court of Justice, *Gabcikovo-Nagymaros Project (Hungary/Slovakia)*, Judgment. 1997.

²³⁸ *Vienna Convention on the Law of Treaties*, 1969, art. 26.

question or with the VCLT itself.²³⁹ More specifically, the Convention provides that a “withdrawal of a party may take place: (a) [i]n conformity with the provisions of the treaty; or (2) [a]t any time by the consent of all the parties after consultations with the other contracting States.”²⁴⁰ In this sense, article X of the NPT is in complete harmony with the international law of treaties.²⁴¹

Additionally, articles 60-62 of the Vienna Convention on the Law of Treaties (VCLT) also provide for other grounds for treaty termination or withdrawal, including material breach, supervening impossibility of performance, and a fundamental change of circumstances.²⁴² A material breach is defined as “the violation of a provision essential to the accomplishment of the object and purpose of the treaty.”²⁴³ To withdraw, a State Party can also invoke a supervening impossibility of performance, if the agreement cannot be implemented due to a permanent lack of an indispensable precondition for the execution of the Treaty.²⁴⁴ Finally, a fundamental change of circumstances which was not foreseen by the parties may also be utilized if “(a) the existence of these circumstances constituted an essential basis of the consent of the parties to be bound by the treaty; and (b) the effect of the change is radically to transform the extent of obligations still to be performed under the treaty.”²⁴⁵ A fundamental change of circumstances is limited to extreme events of international scope, such as war, the founding of new states, the dissolution of a state, and the secession of a part of a state.²⁴⁶

Withdrawal from non-proliferation treaties: the extraordinary events clause

Withdrawal clauses in international treaties are explicitly provided for by international treaty law.²⁴⁷ While withdrawal clauses are thus not uncommon, they tend to be formulated in a particular manner when it comes to arms control treaties.²⁴⁸ Arms control treaties generally allow for withdrawal only if the withdrawing state provides a justification.²⁴⁹ The requirement of a justification by the withdrawing state was first used in the PTBT: under the PTBT, a state could only withdraw if it decided “that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country.”²⁵⁰ The same article was then reproduced in further conventions and agreements in the field of arms control.²⁵¹ Almost the exact wording, with only minor alterations, can be found in article X of the NPT.²⁵² This type of provision is often referred to as the “extraordinary events” clause.²⁵³ The “extraordinary events” clause is unique because of the delicate nature of arms control, its high security sensitivity, and its political as well as technological complexities.²⁵⁴ In addition to the possibilities of withdrawal under general international treaty law, the “extraordinary events” clause makes it possible to use a much broader, or even subjective, legal interpretation to justify a treaty withdrawal.²⁵⁵ Many argue that the successful negotiation of many non-proliferation treaties was only possible because of the flexibility of the “extraordinary events” clause, as opposed to the more narrow and limited provisions of the VCLT.²⁵⁶

Article X of the NPT: content and weaknesses

Compared to the original PTBT withdrawal clause, the language for article X of the NPT includes some significant additions: the requirement to give notice to the UN Security Council and the inclusion of a statement describing the

²³⁹ Ibid., art. 42(2).

²⁴⁰ Ibid., art. 54.

²⁴¹ Joyner & Roscini, *Withdrawal from non-proliferation treaties*, 2012, p. 154.

²⁴² *Vienna Convention on the Law of Treaties*, 1969, art. 60-62.

²⁴³ Ibid., art. 60.

²⁴⁴ Ibid., art. 61.

²⁴⁵ Ibid., art. 62.

²⁴⁶ Cohn, *Interpreting the Withdrawal Clause in Arms Control Treaties*, 1989, p. 854-864.

²⁴⁷ Goldblat, *Should the right to withdraw from the NPT be withdrawn?*, 2009, p. 3.

²⁴⁸ Joyner & Roscini, *Withdrawal from non-proliferation treaties*, 2012, p. 164.

²⁴⁹ Helfer, *Exiting Treaties*, 2005, p. 1598.

²⁵⁰ Treaty Banning Nuclear Weapon Tests In The Atmosphere, In Outer Space And Under Water, 1963, art. IV; Joyner & Roscini, *Withdrawal from non-proliferation treaties*, 2012, p. 153.

²⁵¹ Joyner & Roscini, *Withdrawal from non-proliferation treaties*, 2012, p. 153.

²⁵² *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, art. X.1.

²⁵³ Joyner & Roscini, *Withdrawal from non-proliferation treaties*, 2012, p. 152; Ahlström, *Withdrawal from arms control treaties*, 2004, p. 769.

²⁵⁴ Joyner & Roscini, *Withdrawal from non-proliferation treaties*, 2012, p. 161.

²⁵⁵ Ibid., p. 159.

²⁵⁶ Ibid., p. 161.

extraordinary event leading to withdrawal and how that event relates to the subject matter of the Treaty.²⁵⁷ Furthermore, the withdrawing state must provide three months of notice of its intention to withdraw.²⁵⁸ However, article X does not provide any procedural safeguards nor does it elaborate on how a statement pursuant to article X should be treated.²⁵⁹ Neither does it specify any limitations to what would constitute an extraordinary event.²⁶⁰ In fact, the clause specifically outlines that the assessment and decision on what represents an extraordinary event and how it jeopardizes supreme interests, rests exclusively within the State Party invoking withdrawal.²⁶¹ The requirement to provide an explanation of the extraordinary event in question before the UN Security Council suggests that the international community will review the grounds for any withdrawal.²⁶² Nevertheless, the article does not specify whether and how other parties should accept or deny such a statement.²⁶³

Role of the International System

At the 2000 NPT Review Conference (RevCon), the States Parties improved the review process by holding Preparatory Committee (PrepCom) meetings prior to the actual Review Conferences.²⁶⁴ Since then, both the PrepCom meetings and the RevCon have become a key forum to debate the implications of withdrawals from the NPT.²⁶⁵ Although the 2005 NPT RevCon failed to adopt a final agreement on measures to address withdrawal, the PrepComs for the 2010 NPT RevCon saw a continuation of this debate.²⁶⁶ The Draft Recommendations to the 2010 Review Conference endorsed proposals presented in the Preparatory Committee stating that States Parties could collectively respond to notifications of withdrawal.²⁶⁷ In this regard, the topic of article X was addressed for the first time in the Final Document of the 2010 NPT Review Conference.²⁶⁸ However, it did not provide specific recommendations for follow-up action, clarifications of the procedures following a State Party's notice of withdrawal, or possible measures to address any further withdrawals.²⁶⁹ Rather, the rather vague language utilized did little to clarify and address the legal consequences of further state withdrawals.²⁷⁰

The UN Security Council

Under the *Charter of the United Nations*, the Security Council is mandated to take action against threats to international peace and security.²⁷¹ Article X of the NPT specifically asks for the active involvement of the Security Council in case a State Party to the NPT should wish to withdraw from the Treaty.²⁷² It is thus within the power of the Security Council to decide whether a withdrawal from the NPT constitutes a threat to international peace and security.²⁷³ In order to strengthen the nuclear non-proliferation regime, the UN Security Council adopted a number of resolutions, including resolution 255 (1968) and resolution 984 (1995), which reaffirmed security assurances to NNWSs. Additionally, Security Council resolution 1540 (2004), which was adopted under Chapter VII and is thus

²⁵⁷ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, art. X.1.

²⁵⁸ *Ibid.*

²⁵⁹ Goldblat, *Should the right to withdraw from the NPT be withdrawn?*, 2009, p. 3

²⁶⁰ *Ibid.*

²⁶¹ Ahlström, *Withdrawal from arms control treaties*, 2004, p. 770.

²⁶² Goldblat, *Should the right to withdraw from the NPT be withdrawn?*, 2009, p. 2.

²⁶³ *Ibid.*

²⁶⁴ 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Final Document, vols. I-III (NPT/CONF.2000/28 (Parts I-IV))*, 2000.

²⁶⁵ Nielsen, *Interpreting the withdrawal clause of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT): options within the 2010 NPT review cycle*, 2008, p. 110.

²⁶⁶ Preparatory Committee for the 2010 Review Conference of the Parties to the NPT, Chairman's Working Paper (NPT/CONF.2010/PC.I/WP.78), 2007, p. 10; Preparatory Committee for the 2010 Review Conference of the Parties to the NPT, *Second Session. Factual Summary*, 2008, p. 12.

²⁶⁷ Preparatory Committee for the 2010 Review Conference of the Parties to the NPT *Draft Recommendations to the Review Conference (NPT/CONF.2010/PC.III/CRP.4)*, 2009.

²⁶⁸ 2010 Review Conference of the Parties to the NPT, *Final Document (NPT/CONF.2010/50 (Vol. 1))*, 2010, p. 18-19.

²⁶⁹ *Ibid.*

²⁷⁰ *Ibid.*

²⁷¹ *Charter of the United Nations*, 1945, art. 39, 41, 42; Bunn & Rhineland, *NPT Withdrawal: Time for the Security Council to Step In*, 2005.

²⁷² *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968, art. X.1.

²⁷³ Bunn & Rhineland, *NPT Withdrawal: Time for the Security Council to Step In*, 2005.

regarded to be binding upon UN Member States by virtue of Article 25 of the *Charter of the United Nations*, compels Member States to criminalize the proliferation of weapons of mass destruction to non-state actors.²⁷⁴

In the wake of the debate following North Korea's nuclear weapons-related tests and its withdrawal from the NPT, the Council adopted resolution 1718 (2006) condemning the DPRK's activities and requesting it to retract its decision to withdraw from the NPT.²⁷⁵ At the same time, the resolution sanctioned the trade of military equipment, goods, and technology.²⁷⁶ Additionally, in 2009 the Security Council adopted resolution 1887, committing to address without any delay any state's notice of withdrawal from the NPT.²⁷⁷ It also reaffirmed international legal provisions that a State Party remains responsible for any violations of the NPT prior to its withdrawal and prescribed how to deal with nuclear material and equipment that was previously acquired by the withdrawing state.²⁷⁸

The Withdrawal of the Democratic People's Republic of Korea (DPRK)

To this day, North Korea remains the only state to have withdrawn from the NPT. Before its accession to the NPT, the DPRK concluded a facility-specific safeguards agreement with the IAEA in 1977.²⁷⁹ In 1985, with its accession to the NPT, the DPRK concluded a full-scope NPT Safeguard Agreement with the IAEA in accordance with article III of the NPT, and admitted IAEA inspectors to its nuclear facilities.²⁸⁰ After the accession in 1985, the 1977 agreement was suspended while the North Korean government repeatedly refused requests by the IAEA for information or access to specific sites.²⁸¹ This prompted the IAEA Board of Governors to announce that the DPRK was in non-compliance with its Safeguard Agreement, and the matter was referred to the Security Council.²⁸² Shortly after, in March 1993, the government of the DPRK issued a statement announcing its withdrawal from the NPT under article X, citing joint US-South Korean military exercises.²⁸³

In its statement, the DPRK argued that those military exercises, as well as the IAEA's demand for special inspections to military sites unrelated to nuclear activities, constituted an encroachment on its sovereignty and national security.²⁸⁴ The depositary governments of the NPT issued a joined statement urging the DPRK to retract its announcement and to comply fully with its Treaty commitments as well as its safeguards obligations.²⁸⁵ In May 1993, the Security Council adopted resolution 825 (1993) which called upon the DPRK to reconsider its announcement.²⁸⁶ During the three months period of notice, the United States and the DPRK held bilateral talks, which succeeded in the DPRK's decision to unilaterally suspend the effectuation of its announcement to withdraw from the NPT.²⁸⁷ In accordance with the Agreed Framework of 1994, the DPRK affirmed its intention to remain part of the NPT and allow safeguards inspections.²⁸⁸ However, tensions between the IAEA and the DPRK continued over the course of the next decade. In late 2002, after the IAEA requested further information from the DPRK to investigate new allegations of treaty violations, the DPRK ordered the IAEA inspectors to leave the country.²⁸⁹

²⁷⁴ UN Security Council, *Resolution 255 (S/RES/255 (1968))*, 1968; UN Security Council, *Resolution 984 (S/RES/984 (1995))*, 1995; UN Security Council, *Resolution 1540 (S/RES/1540 (2004))*, 2004.

²⁷⁵ UN Security Council, *Chronology of Events. DPRK (North Korea)*, 2014; UN Security Council, *Non-proliferation/Democratic People's Republic of Korea (S/RES/1718 (2006))*, 2006.

²⁷⁶ UN Security Council, *Non-proliferation/Democratic People's Republic of Korea (S/RES/1718 (2006))*, 2006.

²⁷⁷ UN Security Council, *Maintenance of international peace and security: Nuclear non-proliferation and nuclear disarmament (S/RES/1887 (2009))*, 2009.

²⁷⁸ *Ibid.*

²⁷⁹ IAEA, *Agreement of 20 July 1977 between the Agency and the Democratic People's Republic of Korea for the Application of Safeguards in Respect of a Research Reactor Facility (INFCIRC/252)*, 1977.

²⁸⁰ *Treaty on the Non-Proliferation of Nuclear Weapons (NPT)*, 1968, art. III.

²⁸¹ IAEA, *Factsheet on DPRK Nuclear Safeguards*, 2010.

²⁸² *Ibid.*

²⁸³ Democratic People's Republic of Korea, *Statement of the Government of the Democratic People's Republic of Korea (Pyongyang, 12 March 1993)*, 1993.

²⁸⁴ *Ibid.*

²⁸⁵ Conference on Disarmament, *Letter dated 2 April 1993 addressed to the Secretary-General of the Conference on Disarmament by the representatives of the Depositary Governments of the Treaty on the Non-Proliferation of Nuclear Weapons transmitting a statement issued by the three Governments on 1 April 1993 (CD/1195)*, 1993.

²⁸⁶ UN Security Council, *Democratic People's Republic of Korea (S/RES/825 (1993))*, 1993.

²⁸⁷ Ahlström, *Withdrawal from arms control treaties*, 2004, p. 772.

²⁸⁸ IAEA, *Agreed Framework of 21 October 1994 between the United States of America and the Democratic People's Republic of Korea (INFCIRC/457)*, 1994.

²⁸⁹ IAEA, *Factsheet on DPRK Nuclear Safeguards*, 2010.

On 11 January 2003, the DPRK declared the automatic and immediate effectuation of its withdrawal from the NPT by ending the 1993 suspension of such effectuation.²⁹⁰ Although there were several expressions of regret by states and international organizations, this decision did not face open and immediate statements of condemnation as was the case ten years earlier.²⁹¹ Neither the depositaries nor the Security Council issued statements or adopted resolutions in the immediate aftermath of DPRK's announcement.²⁹² It was not until 2006 that the Security Council adopted resolution 1718 (2006) that requested the DPRK to retract its withdrawal, but it failed to do so.²⁹³ As a result of its withdrawal, the status of the DPRK's membership of the NPT remains uncertain until now and diverging views on how to address this situation have sparked a broad debate among the international community.²⁹⁴

The Debate over Article X

Implications for safeguards and technical assistance

In accordance with article III of the NPT, a non-nuclear-weapon State Party to the NPT is required to accept IAEA safeguards on all existing and future nuclear material.²⁹⁵ If a State Party withdraws from the Treaty, all safeguards and obligations assumed under the NPT cease to apply.²⁹⁶ However, the precise implications of a State Party's withdrawal from IAEA safeguards are not clear and have been subject of debate.²⁹⁷

Even if a state withdraws from the NPT, that state remains responsible for any violations of the NPT committed prior to its withdrawal.²⁹⁸ Both the Security Council and the 2010 NPT RevCon reaffirmed this provision in resolution 1887 (2009) and the Final Document of the 2010 RevCon, respectively.²⁹⁹ In this case, it can be argued that states that have withdrawn might still be bound to cooperate with the IAEA, even if they cannot simply be held to their safeguards agreement once withdrawal from the NPT is effective.³⁰⁰ However, bilateral safeguard agreements that have been concluded prior to, or independently from, those under the NPT, might be applicable still and warrant cooperation. In the case of DPRK, it could be argued that the facility-specific agreement of 1977 is still valid even after the ending of the obligations under the NPT.³⁰¹

Security Council resolution 1887 (2009) further addressed the nuclear material and equipment that has been provided for a withdrawn state by the virtue of its former membership in the Treaty: in this resolution, the Council encourages Member States to require as a condition of nuclear exports that the recipient state has to return the provided material if and when the IAEA finds the recipient state to be in non-compliance.³⁰² The 2010 NPT RevCon referred to this point in a similar manner, but lacking a consensus, the proposal was not included in the recommendations for follow-on action.³⁰³

The debate over possible measures to address withdrawal

²⁹⁰ Korean Central News Agency, *Statement of DPRK Government on its withdrawal from NPT*, Pyongyang, January 10, 2003.

²⁹¹ Preparatory Committee for the 2005 Review Conference of the Parties to the NPT, *Report of the Preparatory Committee on its second session (NPT/CONF.2005/PC.II/50)*, 2003, p. 21.

²⁹² Ahlström, *Withdrawal from arms control treaties*, 2004, p. 773.

²⁹³ UN Security Council, *Non-proliferation/Democratic People's Republic of Korea (S/RES/1718 (2006))*, 2006.

²⁹⁴ UN Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Final report of the Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT/CONF.2015/1 (2014))*, 2014; United Nations Office for Disarmament Affairs, *Democratic People's Republic of Korea: Accession to Treaty on the Non-Proliferation of Nuclear Weapons (NPT)*.

²⁹⁵ IAEA, *The Structure and Content of Agreements between the Agency and States Required in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/153)*, 1972.

²⁹⁶ Carlson, *Withdrawal from the NPT: Consequences for IAEA Safeguards*, 2009, p. 3.

²⁹⁷ *Ibid.*

²⁹⁸ Fleck, *State responsibility consequences of termination of or withdrawal from non-proliferation treaties*, 2012, p. 264.

²⁹⁹ UN Security Council, *Maintenance of international peace and security: Nuclear non-proliferation and nuclear disarmament (S/RES/1887 (2009))*, 2009; 2010 Review Conference of the Parties to the NPT, *Final Document (NPT/CONF.2010/50 (Vol. I))*, 2010, p. 18.

³⁰⁰ Fleck, *State responsibility consequences of termination of or withdrawal from non-proliferation treaties*, 2012, p. 264.

³⁰¹ Ahlström, *Withdrawal from arms control treaties*, 2004, p. 774.

³⁰² UN Security Council, *Maintenance of international peace and security: Nuclear non-proliferation and nuclear disarmament (S/RES/1887 (2009))*, 2009.

³⁰³ 2010 Review Conference of the Parties to the NPT, *Final Document (NPT/CONF.2010/50 (Vol. I))*, 2010, p. 18-19.

At previous NPT PrepComs and RevCons, the discussion has focused on establishing additional procedures for addressing withdrawal and specifying the exact meaning of language of article X, rather than amending the Treaty text itself.³⁰⁴ In a number of working papers submitted at the PrepComs for the 2005 and 2010 NPT RevCon, the sponsoring states called for an agreement on the rules and procedures following a State Party's decision to withdraw in the future.³⁰⁵ The proposed withdrawal procedures include the possibility of a requirement to submit the withdrawal-notification to all States Parties, the possibility of an extraordinary consultative conference of the NPT as an immediate reaction, the development of a list of criteria relating to the definition of an extraordinary event, and the establishment of a rule that the right of withdrawal cannot be exercised in cases where the state in question is in non-compliance.³⁰⁶

Other States Parties discussed mechanisms to ensure that states that withdraw from the NPT may not benefit from nuclear materials, equipment, and technology acquired while party to the treaty.³⁰⁷ In this context, proposed measures include compelling withdrawing states to destroy or dismantle any nuclear items acquired from abroad, or return them to their country of origin.³⁰⁸ Further proposals advocated prohibiting the use of the acquired nuclear material by a withdrawing state and integrating that material into transfer agreements between nuclear suppliers and their customer.³⁰⁹ Both the Final Document of the 2010 NPT Review Conference and Security Council resolution 1887 (2009) endorsed these proposals, but fall short of defining clear procedures.³¹⁰ There were also incentive-based approaches which envisaged bolstering the benefits of the NPT regime to prevent further withdrawals.³¹¹ Many ideas and proposals were exchanged in the past years, yet, in the absence of a consensus, only few of those ideas were reflected in the substantive paragraphs of the final documents of the past RevCons.

Possible action to address withdrawal

Although the NPT Review Conference has not yet resolved the issue of withdrawal under article X, it is still the most significant international forum with the mandate to do so. The role of the UN Security Council as an adjudicator over the decision to withdraw is intended as a deterrent, to give the Council an opportunity to “deal with any withdrawal that might produce a threat to international peace and security.”³¹² However, the Security Council is not mandated to pass a formal judgment on the validity of the withdrawal justification.³¹³ It therefore cannot permit or prohibit withdrawals, but is limited to determining whether the withdrawal constitutes a threat to international peace and security.³¹⁴ Yet, if the Council determines that a Member State's decision to withdraw from an arms control treaty constitutes a threat to international peace and security, it may decide to take action.³¹⁵ In case of North Korea's withdrawal from the NPT, the UN Security Council has indeed taken action and passed a series of

³⁰⁴ Nielsen, *Interpreting the withdrawal clause of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT): options within the 2010 NPT review cycle*, 2008, p. 111-112.

³⁰⁵ Preparatory Committee for the 2005 Review Conference of the Parties to the NPT, *Strengthening the NPT against withdrawal and non-compliance. Suggestions for the establishments of procedures and mechanisms*, 2004; Preparatory Committee for the 2010 Review Conference of the Parties to the NPT, *Article X: Withdrawal (NPT/CONF.2010/PC.II/WP.29)*, 2008.

³⁰⁶ Preparatory Committee for the 2005 Review Conference of the Parties to the NPT, *Strengthening the NPT against withdrawal and non-compliance. Suggestions for the establishments of procedures and mechanisms*, 2004.

³⁰⁷ Preparatory Committee for the 2010 Review Conference of the Parties to the NPT, *Article X of the NPT: deterring and responding to withdrawal by Treaty violators (NPT/CONF.2010/PC.I/WP.22)*, 2007.

³⁰⁸ Preparatory Committee for the 2005 Review Conference of the Parties to the NPT, *Strengthening the NPT against withdrawal and non-compliance. Suggestions for the establishments of procedures and mechanisms. Working Paper submitted by Germany*, 2004; Preparatory Committee for the 2010 Review Conference of the Parties to the NPT, *Withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons: European Union Approach (NPT/CONF.2010/PC.I/WP.25)*, 2007.

³⁰⁹ Preparatory Committee for the 2010 Review Conference of the Parties to the NPT, *Perspectives on issues related to article X of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT/CONF.2010/PC.I/WP.34)*, 2007.

³¹⁰ 2010 Review Conference of the Parties to the NPT, *Final Document (NPT/CONF.2010/50 (Vol. 1))*, 2010, p. 19; UN Security Council, *Maintenance of international peace and security: Nuclear non-proliferation and nuclear disarmament (S/RES/1887 (2009))*, 2009.

³¹¹ Preparatory Committee for the 2010 Review Conference of the Parties to the NPT, *Perspectives on issues related to withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons: Bolstering the benefits of the NPT regime to prevent withdrawal (NPT/CONF.2010/PC.II/WP.11)*, 2008.

³¹² Bunn & Rhinelander, *NPT Withdrawal, Time for the Security Council to Step In*, 2005.

³¹³ Goldblat, *Should the right to withdraw from the NPT be withdrawn?*, 2009, p. 4.

³¹⁴ *Ibid.*

³¹⁵ *Ibid.*

resolutions.³¹⁶ But since it has only dealt with the DPRK, it is yet to be seen whether the Security Council's stance can be generalized.³¹⁷ In this regard, new proposals from the NPT Review Conference would enable the UN Security Council to react more consistently with established and agreed upon procedures.³¹⁸

Conclusion

After the 2010 NPT RevCon, the debate on article X and the right to withdraw from the NPT has reached a significant impasse. Only a few of the recommendations articulated in previous years' Preparatory Committees were included into the Final Document of the 2010 NPT Review Conference. As a result, the document's recommendations for follow-up actions only contain one short paragraph urging the DPRK to return to the NPT.³¹⁹ During the Preparatory Committee for the 2015 NPT RevCon, the same arguments were made again, however, the Draft Recommendations do not contain any substantive points addressing the issue.³²⁰ The complexities of the international legal framework and the lack of established international procedures, as demonstrated by the case of North Korea's withdrawal, raise the question of the role of the international system and appropriate ways to address withdrawal, which could set precedents in international law.³²¹ In summary, the ambiguous wording of article X and the lack of consensus and action on the side of the NPT RevCons have hindered a common, explicit understanding of the significance of article X in the current international political and legal milieu.³²²

Without these clarifications, it remains unclear how the international system and their various stakeholders, ranging from the UN Security Council to the IAEA, should react to future withdrawals from the NPT. Therefore, the role of the 2015 NPT Review Cycle Conference is key in order to adopt a clearer stance towards addressing NPT withdrawal. The latter may include the incorporation of follow-up actions calling for a significant reinterpretation of article X, together with defined procedures in case of future withdrawal notifications. Furthermore, strengthening the NPT regime through the creation of incentives for states to remain parties to the treaty may be an important strategy towards addressing withdrawal.

Further Research

In preparing for this topic, delegates should be aware of the recurring patterns of the diplomatic debate. What were the conflict lines that prevented the implementation of substantive measures in the final RevCons' consensus documents? What are the proposals that have been discussed? Will they be considered during the current Review Cycle, and what are the chances of their adoption in the current scenario? What are the technical and practical implications to be addressed and specified in a final document? How could these be effectively implemented? How can the NPT Review Conference clarify its position in regard to article X and establish procedural and legal precedents for future withdrawal cases? How can the NPT maintain its integrity, including its safeguards and monitoring mechanisms, while avoiding states to withdraw?

³¹⁶ UN Security Council, *Maintenance of international peace and security: Nuclear non-proliferation and nuclear disarmament (S/RES/1887 (2009))*, 2009.

³¹⁷ Fleck, *State responsibilities of termination of or withdrawal from non-proliferation treaties*, 2012, p. 262.

³¹⁸ Preparatory Committee for the 2010 Review Conference of the Parties to the NPT, *Withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons: European Union Approach (NPT/CONF.2010/PC.I/WP.25)*, 2007; Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Exercise of the right of withdrawal contained in article X (NPT/CONF.2015/PC.III/WP.13)*, 2014.

³¹⁹ 2010 Review Conference of the Parties to the NPT, *Final Document (NPT/CONF.2010/50 (Vol. 1))*, 2010, p. 19.

³²⁰ Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Draft Recommendations to the 2015 NPT Review Conference NPT/CONF.2010/PC.III/CRP.7*, 2014, p. 10.

³²¹ Fleck, *State responsibilities of termination of or withdrawal from non-proliferation treaties*, 2012, p. 262.

³²² Nielsen, *Interpreting the withdrawal clause of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT): options within the 2010 NPT review cycle*, 2008, p. 110.

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[http://www.undocs.org/NPT/CONF.2010/50\(VOL.I\)](http://www.undocs.org/NPT/CONF.2010/50(VOL.I))

During the PrepComs for the 2010 NPT RevCon, article X and withdrawal from the NPT were intensely debated, yet the final document of the RevCon addresses the issue only briefly – a fact which underscores how contested it was to agree upon the language for the final documentation. Although the document does include a number of important points in relation to treaty withdrawal, the language lacks a clear position towards the actual legal consequences of withdrawal. By comparing the Final Document with the Recommendations of the Preparatory Committee, delegates can comprehend how different standpoints and proposals have been negotiated, but ultimately failed to be included in the final consensus document.

Ahlström, C. (2004). Withdrawal from arms control treaties. In: *SIPRI Yearbook 2004: Armaments Disarmament and International Security*, pp. 763-777.

This short and concise essay, published in the 2004 Yearbook of the Stockholm International Peace Research Institute, provides an excellent introduction into the most important legal aspects of withdrawal clauses and also offers a short overview over the case of the Democratic People's Republic of Korea. It also contextualizes the general problem of withdrawal from arms control treaties. This document will provide delegates with an excellent resource to understand the complexities of the international legal framework, while at the same time contextualizing the abstract legal analysis with the case of the DPRK.

Carlson, J. (2009). *Withdrawal from the NPT: Consequences for IAEA Safeguards*. Research paper commissioned by the International Commission on Nuclear Non-proliferation and Disarmament.

This short research paper explores in-depth the implications of a withdrawal from the NPT for the IAEA safeguards agreements. After an analysis of the various situations and legal circumstances involved in a withdrawal case, the paper also summarizes various proposals that have been advanced for addressing this situation. This paper provides a starting point for delegates when researching for possible steps and measures to be carried out, before delving into the more intricate and complex processes of the NPT Review Conferences itself.

Fleck, D. (2012). State responsibilities of termination of or withdrawal from non-proliferation treaties. In: D. Joyner et al. (ed.). *Non-Proliferation Law as a Special Regime*. Cambridge: Cambridge University Press, p. 250-269.

In this essay, Fleck provides an in-depth examination of the legal responsibilities and obligations resulting from withdrawal from non-proliferation treaties. Fleck comes to the conclusion that consequences of withdrawal from a non-proliferation treaty are governed by a series of relevant rules in accordance with international law. This results in legal obligations of the withdrawing state beyond the provisions of the treaty in question. This is a great resource for delegates to get acquainted with the role and possibilities of various actors in the international system, including the UN, the Security Council and the IAEA.

Grotto, A. (2009). Non-Proliferation Treaty (1968). *Max Planck Encyclopedia of Public International Law*. Oxford: Oxford University Press.

This article, published by the Max Planck Encyclopedia of Public International Law, is an excellent starting point for any research on NPT-related matters. In regard to the topic at hand, it not only provides valuable insights into the negotiating history of contested treaty points, but also outlines in a concise and approachable manner the intricate complexities of the technological background of nuclear technologies and how they relate e.g. to IAEA safeguards and the NPT.

International Atomic Energy Agency. (n.d.). *IAEA and DPRK* [Website]. Retrieved 9 July 2014 from:

<http://www.iaea.org/newscenter/focus/iaeadprk/index.shtml>

This website provides access to all relevant reports and resolutions on the DPRK's nuclear weapons program adopted by the IAEA, as well as key UN Security Council documents and IAEA Member State communications. This is an essential resource for delegates as it provides access to

all IAEA documents relating to the DPRK's nuclear activities, including annual reports on the application of the DPRK's safeguards agreement. The website also provides a detailed chronology of events outlining the IAEA's involvement in the denuclearization of the Korean peninsula.

Joyner D. (2012). Withdrawal from non-proliferation treaties. In: D. Joyner et al. (ed.). *Non-Proliferation Law as a Special Regime*. Cambridge: Cambridge University Press, pp. 151-172.

This essay provides a detailed legal account of the issue of withdrawal from non-proliferation treaties. Although a legal text, it is articulated in an approachable language that makes it easy for delegates to understand the complex and abstract legal framework of treaty withdrawal in the context of non-proliferation. It analyzes the NPT withdrawal clause within the wider international legal framework and applies the insights in a case study on the withdrawal of the DPRK. Specifically, it considers how the UN and the Security Council has dealt with the withdrawal of the DPRK.

Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. (2014). *Recommendations by the Chair to the 2015 NPT Review Conference*. Retrieved 12 July 2014 from: http://www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2015/PC.III/WP.46

This working paper, drafted by the Chair of the Preparatory Committee for the 2015 NPT Review Conference, reflects the views and positions of participating State Parties at the Preparatory Committee. It is the final document containing recommendations that the Chair submitted to the 2015 Review Conference. Through this document, delegates can gain a deeper understanding of how the actual negotiation process unfolds in the run-up to the NPT Review Conference. It provides a valuable summary of the content and topics that are likely to be discussed in the Review Conference itself and provides insights into the lines of conflict during the deliberations.

United Nations, Security Council, 6191st Meeting. (2009). *Maintenance of international peace and security: Nuclear non-proliferation and nuclear disarmament (S/RES/1887 (2009))* [Resolution]. Retrieved 8 August 2014 from: [http://undocs.org/S/RES/1887\(2009\)](http://undocs.org/S/RES/1887(2009))

In this resolution, the UN Security Council considered the issue of NPT withdrawals as part of a wider debate on nuclear disarmament and non-proliferation. In the resolution, the council commits itself to immediately addressing any state's notice of withdrawal with no delay, and explicitly refers to the ongoing debate within the NPT review cycles on specifying the modalities and procedures under which States Parties could respond to withdrawals in the future. Additionally, the resolution contains important endorsements of legal provisions and principles, including the principle that States Parties remain responsible under international law for violations of the NPT committed prior to its withdrawal. For delegates, the resolution provides an important endorsement of the work already done at the NPT Review Conferences. At the same time, it shows how further meaningful Security Council involvement would require a clearer position of the NPT Review Conferences themselves.

Reaching Critical Will. *Disarmament Fora: Nuclear Non-Proliferation Treaty*. [Website]. Retrieved 8 August 2014 from: <http://www.reachingcriticalwill.org/disarmament-fora/npt>

Reaching Critical Will (RCW) is the disarmament program of the Women's International League for Peace and Freedom (WILPF), the oldest women's peace organization in the world. Its online disarmament fora are a great resource for starting research on any disarmament topic. Specifically for the NPT Review Cycles, it offers an approachable database with all relevant documents from the previous Review Conferences as well as Preparatory Committees. The source will be useful for delegates since it provides the simplest way to find certain statements and working papers that specifically pertain to the topic at hand.

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United Nations, Security Council, 6932nd Meeting. (2013). *Non-proliferation/Democratic People's Republic of Korea (S/RES/2094 (2013))* [Resolution]. Retrieved 22 October 2014 from: [http://undocs.org/S/RES/2094\(2013\)](http://undocs.org/S/RES/2094(2013))

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III. Denuclearization of the Korean Peninsula

“I urge you to work in a spirit of compromise and flexibility. I hope you will avoid taking absolute positions that have no chance of generating consensus. Instead, build bridges, and be part of a new multilateralism.”³²³

Introduction

The *Treaty on the Non-Proliferation of Nuclear Weapons* (NPT) (1968) aims to prevent the spread of nuclear weapons and weapons technology, while seeking to foster complete nuclear disarmament and international cooperation in the peaceful use of nuclear energy.³²⁴ In the pursuit of strengthening the non-proliferation regime and achieving the objective of nuclear disarmament, the promotion of regional peace and security has played a key role during previous Review Conferences of the Parties to the Treaty on Non-Proliferation of Nuclear Weapons.³²⁵ In this regard, the Democratic People’s Republic of Korea’s (DPRK) nuclear weapons program, exacerbating the decades-long tensions between DPRK and the Republic of Korea (ROK), has been described by the International Atomic Energy Agency’s (IAEA) Director General, Yukiya Amano, as “deeply troubling” and repeatedly highlighted as one of the greatest regional challenges to nuclear non-proliferation and disarmament.³²⁶ With the two countries remaining technically at war following the signing of an armistice during the Korean War in 1953, mutual mistrust between DPRK and ROK continues to represent a major threat to peace and stability in Northeast Asia.³²⁷ Furthermore, diverging priorities and preferences among United Nations (UN) Member States involved in negotiations on achieving peace and stability on the Korean peninsula, particularly the United States of America and the People’s Republic of China, impede greater regional stability and threaten to put a strain on global security cooperation.³²⁸ In order to arrive at viable solutions to promote the denuclearization of the Korean peninsula at the 2015 Review Conference, delegates need to be familiar with the international and regional framework, including key legal documents guiding the negotiations on the situation on the Korean peninsula, understand the role of various UN institutions and other entities in the international system, and comprehend a number of subtopics complicating the promotion of nuclear disarmament and non-proliferation in Northeast Asia.

International and Regional Framework

Multilateral efforts aimed at promoting the denuclearization of the Korean peninsula have both relied on and produced a comprehensive international and regional legal framework, delineating the negotiations between the parties involved. Following ROK’s signing of the NPT as a non-nuclear weapons state on 1 July 1968 and DPRK’s accession to the treaty on 12 December 1985, the NPT represents the legal foundation for international efforts seeking to avert conflict on the Korean peninsula in the light of DPRK’s nuclear weapons program.³²⁹ Prior to its accession to the NPT, DPRK had already built a 5 MW(e) natural uranium, graphite moderated reactor in Yongbyong, as well as a fuel rod fabrication plant, and began constructing two larger gas-graphite reactors in 1987.³³⁰ The construction of these facilities, along with a radiochemical laboratory, provided DPRK with a sizeable nuclear reprocessing capacity, inter alia allowing the conversion of used nuclear fuel into fissile plutonium, which in turn can be diverted from civil use to manufacture a nuclear weapon.³³¹ DPRK cooperated with the IAEA before its accession to the NPT in 1985, as monitoring activities by the IAEA at two of DPRK’s nuclear research facilities had been in place since 1977.³³² Nonetheless, indications that DPRK was pursuing a secret nuclear weapons program did not emerge until mid-1992, when the IAEA first discovered inconsistencies between DPRK’s declaration of plutonium production and nuclear waste solutions, and the IAEA’s own results of its monitoring activities.³³³

³²³ Ban, *Remarks to the Third Session of the PrepCom for the 2010 NPT RevCon*, 2009.

³²⁴ UN Office for Disarmament Affairs, *Treaty on the Non-Proliferation of Nuclear Weapons (NPT)*.

³²⁵ UN 2010 Review Conference of the Parties to the NPT, *Final Document. Volume I. (NPT/CONF.2010/50 (Vol. I)*)*, 2010.

³²⁶ International Atomic Energy Agency, *Application of Safeguards in the Democratic People’s Republic of Korea. Report by the Director General (GOV/2012/36-GC(56)/11)*, 2012, p. 4.

³²⁷ Konishi, *Denuclearizing North Korea: Exploring Multilateral Approaches to Risk Reduction and Peace Regime Building*, 2011, p. 2.

³²⁸ *Ibid.*, p. 1.

³²⁹ *Treaty on the Non-Proliferation of Nuclear Weapons, 1968; International Atomic Energy Agency, IAEA and DPRK. Factsheet on DPRK Nuclear Safeguards* [Website].

³³⁰ International Atomic Energy Agency. *IAEA and DPRK: Factsheet on DPRK Nuclear Safeguards*.

³³¹ *Ibid.*; World Nuclear Association, *Processing of Used Nuclear Fuel*.

³³² International Atomic Energy Agency, *IAEA and DPRK: Factsheet on DPRK Nuclear Safeguards*.

³³³ *Ibid.*

Of particular importance for the situation on the Korean peninsula are article II of the NPT, obligating States Parties to the treaty to neither receive nor manufacture nuclear weapons or other nuclear explosive devices, and article III, demanding parties to the treaty to accept safeguard agreements with the IAEA for verification of their obligations under the NPT.³³⁴ In addition, article VI of the NPT stresses the need for effective measures promoting the cessation of the nuclear arms race and nuclear disarmament.³³⁵ Given that the long-term goal of efforts aimed at the denuclearization of the Korean peninsula is DPRK's complete nuclear disarmament and the aversion of a nuclear arms race in the region, article VI is of equal importance for negotiations on DPRK's nuclear program and other states' response to it.³³⁶ Finally, as DPRK announced and subsequently suspended its withdrawal from the NPT in 1993, only to ultimately withdraw from the treaty in 2003, article X of the NPT, outlining states' right to withdraw from the treaty, represents one of the legal cornerstones determining DPRK's legal obligations under the NPT.³³⁷

The IAEA-DPRK Safeguards Agreement and the 1992 Joint Declaration

DPRK's accession to the NPT in 1985 formally obliged its administration to implement a comprehensive safeguards agreement with the IAEA within 18 months.³³⁸ Notably, the *Agreement of 30 January 1992 between the Government of the Democratic People's Republic of Korea and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons*, which allowed IAEA inspectors to monitor that none of the fissile material in DPRK was diverted to manufacturing nuclear weapons or other nuclear explosive devices, did not come into force until more than six years after DPRK's accession to the NPT.³³⁹

The eventual implementation of DPRK's safeguards agreement with the IAEA was complemented by the signing of a *Joint Declaration of South and North Korea on the Denuclearization of the Korean Peninsula* (1992) on 20 January 1992, which subsequently entered into force on 19 February 1992.³⁴⁰ The Joint Declaration for the first time defined the concept of the denuclearization of the Korean peninsula, requiring both countries not to test, manufacture, produce, receive, possess, store, deploy or use nuclear weapons.³⁴¹ Furthermore, the two parties obliged themselves not to possess nuclear reprocessing and uranium enrichment facilities, as well as to use nuclear energy solely for peaceful purposes.³⁴² Compliance with the Joint Declaration was intended to be monitored through a Joint Nuclear Control Commission.³⁴³ While later reports of DPRK's uranium enrichment program led the United States, Japan and ROK to conclude on 16 October 2002 that DPRK violated the Joint Declaration, it remains DPRK's only legally binding commitment to the denuclearization of the Korean peninsula, and has thus formed a legal cornerstone during subsequent negotiations on the matter.³⁴⁴ On 12 May 2003 DPRK's central news agency released a report accusing the United States of continued efforts to station tactical nuclear weapons on the Korean peninsula.³⁴⁵ The report concluded that although the implementation of the Joint Declaration was essential for efforts aiming at the denuclearization of the Korean Peninsula, United States' actions had invalidated the declaration.³⁴⁶ Notwithstanding DPRK's claim in 2003 that the Joint Declaration had been invalidated, the commitment to and implementation of the declaration represented one of the key features of the 2005 Joint Statement of the Six-Party Talks, on which DPRK, ROK, China, Japan, the Russian Federation and the United States agreed.³⁴⁷ However, the Joint Statement at the Six-Party Talks only included an explicit commitment to the declaration by ROK, not by

³³⁴ *Treaty on the Non-Proliferation of Nuclear Weapons*, 1968.

³³⁵ Shen, *Cooperative Denuclearization toward North Korea*, 2009, p. 176.

³³⁶ Konishi, *Denuclearizing North Korea. Exploring Multilateral Approaches to Risk Reduction and Peace Regime Building*, 2011, p. 27.

³³⁷ Security Council Report, *Chronology of Events. DPRK (North Korea)*, 2014.

³³⁸ Fischer, *The DPRK's Violation of its NPT Safeguards Agreement with the IAEA. Excerpt from "History of the International Atomic Energy Agency" by David Fischer (1997, published by the IAEA)*, 1997.

³³⁹ International Atomic Energy Agency, *Agreement of 30 January 1992 between the Government of the Democratic People's Republic of Korea and the IAEA for the Application of Safeguards in Connection with the NPT*, 1992.

³⁴⁰ Nuclear Threat Initiative, *Joint Declaration of South and North Korea on the Denuclearization of the Korean Peninsula*.

³⁴¹ *Joint Declaration of South and North Korea on the Denuclearization of the Korean Peninsula*, 1992, Art. 1.

³⁴² *Ibid.*, Art. 2 and 3.

³⁴³ *Ibid.*, Art. 5.

³⁴⁴ Nuclear Threat Initiative, *Joint Declaration of South and North Korea on the Denuclearization of the Korean Peninsula*; Lewis, *Why the 1992 Joint Declaration on Denuclearization of the Korean Peninsula Still Matters*.

³⁴⁵ Federation of American Scientists, *DPRK KCNA's 12 May 'Detailed Report' Says US 'Ruptured' Denuclearization Process*.

³⁴⁶ *Ibid.*

³⁴⁷ United States of America, *Six-Party Talks, Beijing, China*.

DPRK.³⁴⁸ Nonetheless, given that the Joint Declaration does not provide a clause for withdrawal, while the Joint Statement of the Six-Party Talks reiterating the need to implement the declaration has been repeatedly referred to in both Security Council and IAEA resolutions, it can be concluded that the Joint Declaration is still considered to be in effect within the system of the UN today.³⁴⁹

DPRK's withdrawal from the NPT and the IAEA

Overshadowed by continued mistrust between DPRK and ROK, which in turn was exacerbated by joint United States-ROK military exercises in the region, inter-Korean talks on the implementation of the Joint Declaration broke down, and DPRK announced its withdrawal from the NPT on 12 March 1993, effective on 12 June.³⁵⁰ Thereafter, the IAEA's Board of Governors adopted resolution GOV/2645 of 1 April 1993, stating that DPRK was non-compliant with its safeguards agreement with the IAEA, and referred the matter to the UN Security Council.³⁵¹ On 11 June 1993, one day before DPRK's notice of withdrawal was due to take effect, diplomatic efforts spearheaded by the US succeeded in persuading DPRK to suspend its withdrawal from the NPT.³⁵² However, following US intelligence reports in late 2002 that DPRK had been conducting a secret uranium enrichment program, DPRK again announced its immediate withdrawal from the NPT on 10 January 2003, citing the United States' hostile policy threatening the national sovereignty and supreme interests of DPRK.³⁵³

Following DPRK's announcement of withdrawal from the NPT, the status of DPRK's membership of the NPT remains uncertain and diverging views exist among States Parties to the treaty.³⁵⁴ A particularly contentious issue is DPRK's announcement of immediate withdrawal from the treaty. DPRK argued that it was no longer bound to give other States Parties and the Security Council notice of its withdrawal three months in advance, claiming that its 1993 notice of withdrawal was technically still in effect.³⁵⁵ China repeatedly blocked attempts of the Security Council to debate whether DPRK should be formally allowed to withdraw from the NPT.³⁵⁶ Formally discussing DPRK's withdrawal could have seen the Council take action against DPRK if its withdrawal was considered as a threat to international peace.³⁵⁷ This possibility stood in marked contrast to China's interests, as the Chinese government preferred negotiations on the Korean peninsula's denuclearization involving regional powers as well as the Russian Federation and the United States.³⁵⁸ Following its announced withdrawal from the NPT, DPRK participated in neither the Review Conferences in 2005 and 2010, nor the associated preparatory committees.³⁵⁹ During the second session of the Preparatory Committee for the 2005 NPT Review Conference, held in 2003, a number of States Parties to the NPT expressed considerable concerns over DPRK's withdrawal announcement.³⁶⁰ However, regardless of these concerns, the chair of the second session of the Preparatory Committee decided not to open a debate on DPRK's status in the NPT, arguing "that a debate on the issue would only serve to the detriment of the purpose of the Preparatory Committee."³⁶¹ Notwithstanding the lack of clarity regarding DPRK's NPT status, several States Parties to the treaty, among them Japan, urged DPRK at the 2005 NPT Review Conference to dismantle its nuclear weapons program, and stressed the importance of denuclearizing the Korean peninsula as well as addressing

³⁴⁸ Ibid.

³⁴⁹ Lewis, *Why the 1992 Joint Declaration on Denuclearization of the Korean Peninsula Still Matters*, 2011.

³⁵⁰ Nuclear Threat Initiative, *Joint Declaration of South and North Korea on the Denuclearization of the Korean Peninsula*.

³⁵¹ IAEA Board of Governors, *Report by the Director General on the Implementation of the Resolution adopted by the Board on 25 February 1993 (GOV/2636) and of the Agreement between the Agency and the Democratic People's Republic of Korea for the Application of Safeguards in Connection with the NPT (INFCIRC/403). Resolution adopted by the Board on 1 April 1993 (GOV/2645)*, 1993.

³⁵² International Atomic Energy Agency, *IAEA and DPRK: Chronology of Events (Pre-2002)*.

³⁵³ Nuclear Threat Initiative, *Treaty on the Non-Proliferation of Nuclear Weapons (NPT)*; Atomic Archive, *Text of North Korea's Statement on NPT Withdrawal. 10 January 2003*.

³⁵⁴ UN Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Final report of the PrepCom for the 2015 RevCon of the Parties to the NPT (NPT/CONF.2015/1)*, 2014; UN Office for Disarmament Affairs, *Democratic People's Republic of Korea: Accession to the NPT*.

³⁵⁵ Atomic Archive, *Text of North Korea's Statement on NPT Withdrawal. 10 January 2003*.

³⁵⁶ Arms Control Association, *NPT Withdrawal: Time for the Security Council to Step In*, 2005.

³⁵⁷ Ibid.

³⁵⁸ Ibid.

³⁵⁹ UN 2005 Review Conference of the Parties to the NPT, *Final Document. Part III. (NPT/CONF.2005/57 (Part III))*, 2005; UN 2010 Review Conference of the Parties to the NPT, *Final Document. Part IV. (NPT/CONF.2010/50 (Vol. III))*, 2010.

³⁶⁰ UN Preparatory Committee for the 2005 Review Conference of the Parties to the NPT, *Report of the PrepCom on its second session (NPT/CONF.2005/PC.II/50)*, 2003.

³⁶¹ Ibid., p. 2.

DPRK's legitimate security concerns.³⁶² These concerns were reiterated at the 2010 NPT Review Conference, *inter alia* by the Secretary-General and the Director of the IAEA.³⁶³

In addition to its withdrawal from the NPT, DPRK terminated its membership in the IAEA on 13 June 1994, and maintained "that it was no longer obliged to allow" IAEA inspectors to carry out their work, although the withdrawal of its membership did not affect DPRK's obligation under the safeguards agreement with the agency.³⁶⁴ The crisis in 1994 was defused by the signing of a an *Agreed Framework of 21 October 1994 between the United States and the Democratic People's Republic of Korea*, in which both countries pledged to work together for a nuclear-free Korean peninsula and the implementation of the 1992 Joint Declaration, while DPRK agreed to resume cooperation with the IAEA in exchange for United States energy assistance and the provision of a light water reactor power plant.³⁶⁵ Subsequently, the IAEA held regular technical meetings with DPRK, with the last meeting being held in November 2001.³⁶⁶

The 2005 Six-Party Talks Joint Statement

Seeking to stabilize the escalating tensions between the United States' and DPRK's administrations, China hosted and institutionalized negotiations on the nuclear crisis on the Korean peninsula, involving DPRK, United States, ROK, China, Russian Federation, and Japan, which came to be known as Six-Party Talks.³⁶⁷ However, the first three rounds of the talks achieved no substantive progress until September 2005, when representatives of the six countries adopted a *Joint Statement of the Fourth Round of the Six-Party Talks (2005)* in Beijing.³⁶⁸ In the Joint Statement the involved parties reaffirmed the verifiable denuclearization of the Korean peninsula as the ultimate goal of their negotiations.³⁶⁹ In this regard, denuclearization included a commitment by DPRK to abandon its nuclear weapons program and return to the NPT and IAEA safeguards agreement, the affirmation of the United States not to station nuclear weapons on the Korean peninsula and committing not to attack DPRK with nuclear or conventional weapons, as well as the commitment by ROK not to receive or deploy nuclear weapons, while affirming that there were no nuclear weapons within its territory.³⁷⁰ Furthermore, the Joint Statement reiterated DPRK's right to peaceful uses of nuclear energy and emphasized the importance of a normalization of relations between DPRK, United States, ROK and Japan, including the prospects of economic cooperation and energy assistance.³⁷¹

The UN Sanctions Regime

While the 2005 Joint Statement broadened the concept of the denuclearization of the Korean peninsula in comparison to the inter-Korean 1992 Joint Declaration, its implementation was called into question by a long-range missile test in July 2006 and an underground nuclear test in October 2006, both conducted by DPRK.³⁷² Following these events, the Security Council adopted resolution 1718 (2006), condemning DPRK's missile launches and nuclear test, and imposing sanctions barring the provision of military equipment, goods, and technology that could be diverted to benefit DPRK's nuclear weapons and missile program, as well as luxury goods to DPRK.³⁷³ Simultaneously, the resolution set up a Sanctions Committee, which administers a list of prohibited trade items in nuclear, chemical, and biological materials, and is mandated to monitor compliance with the sanctions regime.³⁷⁴ A second nuclear test conducted by DPRK in May 2009 prompted an extension of the imposed sanctions to include all arms and related material, as well as financial transactions, technical training, advice, services, or assistance related to the provision, manufacture, maintenance, or use of such arms or material through Security Council resolution

³⁶² UN 2005 Review Conference of the Parties to the NPT, *Final Document. Part II. (NPT/CONF.2005/57 (Part II))*, 2005, p. 571.

³⁶³ UN 2010 Review Conference of the Parties to the NPT, *Final Document. Part IV. (NPT/CONF.2010/50 (Vol. III))*, 2010, p. 6-8.

³⁶⁴ International Atomic Energy Agency, *IAEA and DPRK: Factsheet on DPRK Nuclear Safeguards*.

³⁶⁵ International Atomic Energy Agency, *Agreed Framework of 21 October 1994 between the United States and the Democratic People's Republic of Korea*, 1994.

³⁶⁶ International Atomic Energy Agency, *IAEA and DPRK: Factsheet on DPRK Nuclear Safeguards*.

³⁶⁷ Park, *Inside Multilateralism: The Six-Party Talks*, 2005, p. 76.

³⁶⁸ United States of America, *Six-Party Talks, Beijing, China*.

³⁶⁹ *Ibid.*

³⁷⁰ *Ibid.*

³⁷¹ *Ibid.*

³⁷² Security Council Report, *Chronology of Events. DPRK (North Korea)*, 2014.

³⁷³ UN Security Council, *Resolution 1718 (S/RES/1718 (2006))*, 2006.

³⁷⁴ *Ibid.*

1874 (2009).³⁷⁵ Resolution 1874 also set up a Panel of Experts to assist the Sanctions Committee in carrying out its mandate.³⁷⁶ The sanctions regime was again extended through Security Council resolution 2094 (2013), following DPRK's third nuclear test on 12 February 2013.³⁷⁷

Role of the International System

The overview over the international framework shows that there are several entities within and outside the UN system concerned with the denuclearization of the Korean peninsula. Following from the NPT's near-universal membership base and the wide range of issues covered by the treaty, including nuclear non-proliferation, disarmament and peaceful uses of nuclear energy, the Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons is a key forum for negotiations.³⁷⁸ At the 2010 Review Conference, States Parties to the treaty reaffirmed that DPRK cannot have the status of a nuclear-weapon state and strongly urged DPRK to fulfill the commitments it has made under the Six-Party Talks, as well as to return to the treaty and adherence to the IAEA safeguards agreement.³⁷⁹ However, although the Review Conference's *Resolution on the Middle East* (1995), calling for a Middle East Nuclear-Weapon-Free-Zone (NWFZ), exemplified the ability to reach consensus on regional nuclear issues, no comparable decisions or recommendations have been adopted in relation to the situation on the Korean peninsula.³⁸⁰ Furthermore, despite calls by the Secretary-General at the 2005 Review Conference to work towards the establishment of a NWFZ on the Korean peninsula, States Parties have not pursued specific action and multilateral efforts at the 2005 and 2010 Review Conferences have been generally strained by DPRK's absence from the conferences.³⁸¹

Monitoring DPRK's Nuclear Program

Although the IAEA has never been able to thoroughly verify the completeness and correctness of DPRK's reports on their compliance with the nuclear safeguards agreement, the agency remains instrumental in providing technical information on DPRK's nuclear program.³⁸² Upon requests issued by DPRK's government in 2009, the IAEA removed all surveillance equipment from DPRK's nuclear facilities and IAEA inspectors left the country on 16 April 2009. In light of the cessation of all cooperation between the IAEA and DPRK, the IAEA's Board of Governors admitted in its latest report on the application of DPRK's safeguards agreement that the agency's capacity to verify the agreement's implementation is limited, but highlighted that DPRK's activities in relation to its nuclear program are continuously monitored, mainly through satellite imagery.³⁸³ The IAEA's surveillance activities particularly focus on developments at DPRK's Yongbyon site, where DPRK reportedly operates a light water reactor and a centrifuge enrichment facility.³⁸⁴

Further information on DPRK's nuclear program, as well as its ballistic missile program and the sanctions regime imposed on DPRK, is provided by the Panel of Experts, which was mandated in Security Council resolution 1874 (2009) to assist the sanctions committee established pursuant to resolution 1718 (2006).³⁸⁵ The Panel of Experts acts under the direction of the 1718 Committee and consists of eight members with specialized backgrounds in fields such as nuclear non-proliferation, finance, export control, missile technology, air transportation, maritime transportation, and customs.³⁸⁶ Similar to the monitoring activities conducted by the IAEA, the Panel of Experts does not have direct access to DPRK's nuclear facilities, but relies on experts' observations, mainly through satellite imagery, information supplied by UN Member States, international organizations, officials, journalists and private

³⁷⁵ UN Security Council, *Resolution 1874 (S/RES/1874 (2009))*, 2009.

³⁷⁶ Ibid.

³⁷⁷ UN Security Council, *Resolution 2094 (S/RES/2094 (2013))*, 2013.

³⁷⁸ UN Office for Disarmament Affairs, *Treaty on the Non-Proliferation of Nuclear Weapons (NPT)*.

³⁷⁹ UN 2010 Review Conference of the Parties to the NPT, *Final Document. Volume I. (NPT/CONF.2010/50 (Vol. I)*)*, 2010.

³⁸⁰ UN 1995 Review Conference of the Parties to the NPT, *Resolution on the Middle East (NPT/CONF.1995/32 (Part I), Annex)*, 1995.

³⁸¹ UN 2005 Review Conference of the Parties to the NPT, *Final Document. Part III. Summary records. List of Participants (NPT/CONF.2005/57 (Part III))*. 2005; UN 2010 Review Conference of the Parties to the NPT, *Final Document. Part IV. Summary records and list of participants (NPT/CONF.2010/50 (Vol. III))*. 2010.

³⁸² International Atomic Energy Agency, *IAEA and DPRK: Factsheet on DPRK Nuclear Safeguards*.

³⁸³ International Atomic Energy, *Application of Safeguards in the Democratic People's Republic of Korea. Report by the Director General (GOV/2012/36-GC(56)/11)*, 2012.

³⁸⁴ Ibid.

³⁸⁵ UN Security Council, *Resolution 1874 (S/RES/1874 (2009))*, 2009.

³⁸⁶ UN Security Council, *Panel of Experts established pursuant to resolution 1874 (2009)*.

individuals, as well as information found in the public domain, including information published by DPRK itself.³⁸⁷ While the Panel of Experts is making use of information on DPRK's nuclear weapons program provided by the IAEA, there is no indication of a formal cooperation between the panel and the agency.³⁸⁸ Furthermore, incident reports of the Panel of Experts on violations of the sanctions regime are treated as confidential and are thus only shared with members of the Security Council and the 1718 Committee but not the IAEA.³⁸⁹

The Six-Party Talks

Following DPRK's announced withdrawal from the NPT in 2003, DPRK's administration favored bilateral negotiations with the United States on the nuclear issue.³⁹⁰ However, United States diplomats refused to meet DPRK officials bilaterally, complicating attempts to diffuse tensions.³⁹¹ To avoid open confrontation between DPRK and the United States, Chinese diplomats hosted trilateral meetings in April 2003, and subsequently expanded the talks to include Russia, ROK and Japan in order to accommodate the United States' perceptions that DPRK's nuclear program constituted a regional issue.³⁹² Six rounds of the Six-Party Talks have been convened, with the last session held in December 2008.³⁹³ In light of United States' refusal to agree on a non-aggression pact with DPRK, mistrust over the peaceful use of DPRK's civil nuclear program, and uncertainties generated by United States' presidential elections in 2004, the first three rounds of the Six-Party Talks convened in 2003 and 2004 did not result in joint actions promoting the denuclearization of the Korean peninsula.³⁹⁴ A breakthrough was achieved during the fourth round of the talks in September 2005, following US recognition of DPRK as a sovereign state, which was backed up by a statement that it did not intend to invade DPRK.³⁹⁵ Based upon the change in United States' policy and its softened opposition to DPRK's civil nuclear energy program, the fourth round of talks concluded with the 2005 Six-Party Talks Joint Statement outlined above.³⁹⁶

The following round of talks started in November 2005 and aimed to achieve progress on the Joint Statement's implementation.³⁹⁷ However, negotiations were severely impeded by United States' sanctions imposed on DPRK's trading and financial entities, as well as DPRK's missile launches and its first nuclear test in October 2006.³⁹⁸ Despite these tensions, DPRK did not depart from its commitment to shut down its Yongbyon facilities.³⁹⁹ Furthermore, the United States and Japan continued to work towards a normalization of relations with DPRK, providing the latter with 50,000 tons of heavy fuel oil, complemented by the United States' announcement removing DPRK from its list of states sponsoring terrorism.⁴⁰⁰ These actions facilitated the adoption of an agreement on initial steps to implement the 2005 Joint Statement during talks in February 2007.⁴⁰¹ Following the parties' agreement, a team of IAEA inspectors arrived in DPRK in July 2007 and confirmed the shut down of DPRK's Yongbyon Experimental Nuclear Power Plant No. 1, its Radiochemical Laboratory, the Yongbyon Nuclear Fuel Fabrication Plant, the Yongbyon Nuclear Power Plant No. 2, and the Nuclear Power Plant at Taechon.⁴⁰² However, progress in the talks foundered again following DPRK's resistance against inspections beyond its Yongbyon site and its test-firing of a Taepo-Dong-2 three stage rocket, which represented a violation of Security Council resolution 1718 (2006) and sparked a new round of sanctions imposed against DPRK by the Security Council.⁴⁰³ In the light of the Council's extension of the sanctions regime, DPRK expelled all IAEA inspectors and withdrew from the Six-Party Talks in April 2009.⁴⁰⁴ These events marked the end of the Six-Party Talks on the denuclearization of the Korean

³⁸⁷ UN Security Council, *Report of the Panel of Experts established pursuant to resolution 1874 (2009) (S/2014/147)*, 2014.

³⁸⁸ UN Security Council, *Report of the Panel of Experts established pursuant to resolution 1874 (2009) (S/2014/147)*, 2014.

³⁸⁹ UN Security Council, *Panel of Experts established pursuant to resolution 1874 (2009)*.

³⁹⁰ Arms Control Association, *The Six-Party Talks at a Glance*, 2012.

³⁹¹ Park, *Inside Multilateralism: The Six-Party Talks*, 2005, p. 76.

³⁹² *Ibid.*

³⁹³ Arms Control Association, *The Six-Party Talks at a Glance*, 2012.

³⁹⁴ *Ibid.*

³⁹⁵ *Ibid.*

³⁹⁶ *Ibid.*

³⁹⁷ *Ibid.*

³⁹⁸ *Ibid.*

³⁹⁹ *Ibid.*

⁴⁰⁰ *Ibid.*

⁴⁰¹ *Ibid.*

⁴⁰² International Atomic Energy Agency, *IAEA Team Confirms Shutdown of DPRK Nuclear Facilities*, 2007.

⁴⁰³ Arms Control Association, *The Six-Party Talks at a Glance*, 2012.

⁴⁰⁴ Security Council Report, *Chronology of Events. DPRK (North Korea)*, 2014.

peninsula.⁴⁰⁵ Nonetheless, the Chinese foreign ministry declared in February 2014 that efforts to revive the Six-Party Talks remained high on its foreign policy agenda for the Korean peninsula, while the US at the same time offered the prospect of working towards the resumption of the talks if DPRK fully accepted the terms of the 2005 Joint Statement.⁴⁰⁶

ROK's Nuclear Capacities

In the light of DPRK's focus on security assurances and guarantees that no nuclear weapons are deployed in the region by external powers, ROK's proactive deterrence policy, including calls from some ROK officials to reintroduce US tactical nuclear weapons on the peninsula or develop the country's own nuclear weapons capacity, has put a strain on negotiations.⁴⁰⁷ Exemplifying the possible detrimental effects of ROK's actions on the progress of denuclearization negotiations, DPRK has repeatedly justified its recent missile test launches as retaliation against military exercises, including live fire drills, conducted by ROK along the two states' maritime border.⁴⁰⁸ While DPRK claimed that its test launch of a supposedly precision guided missile in June 2014 was conducted in response to live fire exercises by ROK near the maritime border, which ROK described as merely routine drills, annual joint military exercises of ROK and the United States have repeatedly caused heightened tensions between DPRK and ROK during previous years.⁴⁰⁹

Furthermore, since 2009 ROK has emerged as a major nuclear exporter and engaged in experiments related to uranium enrichment and plutonium separation.⁴¹⁰ Although ROK only uses low-enriched uranium for its nuclear research reactor facilities, which is not suitable for manufacturing nuclear weapons, IAEA officials concluded that the technical skills acquired during experiments on uranium enrichment and plutonium separation would enable ROK to set up a nuclear weapons program within a relatively short period of time.⁴¹¹ Coupled with ROK's capabilities in missile technology, the United States, China and Japan have voiced concern that such possession of advanced nuclear technology could bring ROK within a couple of months of building an operable nuclear weapon.⁴¹² In addition, ROK's activities represent a violation of the 1992 Joint Declaration, making it in turn more difficult to convince DPRK's government to adhere to the agreement.⁴¹³ In order to allay concerns about its nuclear program, ROK concluded an additional protocol to its 1975 Safeguards Agreement with the IAEA in February 2004, providing IAEA inspectors with access to all of its nuclear research facilities.⁴¹⁴ Furthermore, a bilateral nuclear cooperation agreement between the United States and ROK, which was extended until March 2016 in April 2013, prevents ROK from enriching and reprocessing used nuclear fuel originating from the United States, effectively limiting its capacity to acquire high-enriched uranium, but at the same time complicating the management of ROK's growing volume of nuclear waste.⁴¹⁵

Cross-cutting Issues

While the negotiations on the denuclearization of the Korean peninsula primarily focus on facilitating DPRK's return to the NPT and its IAEA safeguards agreement, potential assistance to DPRK's civilian nuclear energy program, and the establishment of a NWFZ, the progress of negotiations is influenced by a series of other issues exacerbated by DPRK's isolation in the international system.⁴¹⁶ Although the NPT's mandate does not cover the humanitarian aspects of the situation on the Korean peninsula, the humanitarian crisis in DPRK indirectly affects denuclearization talks and vice versa by fuelling a divergence of priorities among the parties involved in the Six-Party Talks.⁴¹⁷ While the United States and ROK stress the importance of disbanding DPRK's nuclear weapons and ballistic missile program, China attaches greater importance to maintaining stability within DPRK's regime and

⁴⁰⁵ Ibid.

⁴⁰⁶ Panda, *The Long Road Back to the Six Party Talks*, 2014.

⁴⁰⁷ Konishi, *Denuclearizing North Korea. Exploring Multilateral Approaches to Risk Reduction and Peace Regime Building*, 2011, p. 9-11.

⁴⁰⁸ The Guardian, *North Korea claims to have tested precision guided missile*, 2014.

⁴⁰⁹ Ibid.

⁴¹⁰ Arms Control Association, *Time for Leadership: South Korea and Nuclear Nonproliferation*, 2011.

⁴¹¹ Ibid.

⁴¹² Ibid.

⁴¹³ Ibid.

⁴¹⁴ Ibid.

⁴¹⁵ Snyder, *Breaking the Stalemate in U.S.-ROK Nuclear Cooperation Negotiations*, 2014.

⁴¹⁶ Park, *Inside Multilateralism: The Six-Party Talks*, 2005, p. 77.

⁴¹⁷ Ibid.

avoiding a considerable stream of refugees from DPRK into the Chinese mainland.⁴¹⁸ John S. Park, project leader of the North Korea Analysis Group at the Belfer Center for Science and International Affairs at Harvard University, notes that an “exodus of North Korean refugees into China would not only be a humanitarian crisis, debilitating China’s economy, and straining its domestic stability, but would also increase the possibility of international aid organizations setting up and administering refugee camps on the mainland”.⁴¹⁹ The divergence of priorities among the parties closely involved, particularly between Chinese efforts to maintain stability within DPRK through trade and investment and US efforts to clamp down on illicit trafficking to and from DPRK, complicates the negotiations on the denuclearization of the Korean peninsula.⁴²⁰ Notably, negotiations between China and the United States focusing on whether to prioritize DPRK’s domestic stability over pressure to disband its nuclear program have been strained by a United States decision to halt all food aid and energy assistance to DPRK since 2009.⁴²¹ Previously, the US had provided DPRK with food aid and energy assistance between 1995 and 2008 worth \$1.3 billion in exchange for the disbandment of DPRK’s nuclear enrichment facilities.⁴²² However, the US suspended its aid shipments following DPRK’s withdrawal from the Six-Party Talks as well as its subsequent missile launches and nuclear tests.⁴²³

Similarly, although the NPT does not provide States Parties with a specific mandate to engage in conflict resolution activities or bring an end to the technically ongoing inter-Korean war, the UN charter mandates Member States to work towards a peaceful resolution of bilateral clashes between DPRK and ROK, which have negatively influenced negotiations on the denuclearization of the Korean peninsula.⁴²⁴ Tensions between ROK and DPRK have repeatedly resulted in violent clashes along the border region and in disputed waters.⁴²⁵ In November 2010, DPRK responded to artillery drills conducted by ROK close to a disputed border region by shelling a military base and civilian targets on the island Yeonpyeong, sparking retaliatory artillery attacks on military positions in DPRK.⁴²⁶ Earlier in 2010 tensions between DPRK and ROK had already flared up, following the sinking of ROK’s navy ship Cheonan near the states’ maritime border due to an explosion.⁴²⁷ While DPRK denied any involvement in the sinking of the Cheonan, ROK published a report backed by the United States, concluding that the sinking was the result of an attack conducted by DPRK.⁴²⁸ Following the incident the Security Council released a presidential statement on 9 July 2010, taking note of ROK’s report and DPRK’s response, and condemned the attack that led to the sinking of the Cheonan, stressing the importance of maintaining peace and stability on the Korean peninsula and in Northeast Asia as a whole.⁴²⁹

Recent Developments

Following the death of DPRK’s leader and top military commander, Kim Jong-il, in December 2011 and the installment of Kim Jong-un, his youngest son, as new supreme military commander on 29 December 2011, DPRK engaged in several actions provoking international condemnation and an extension of the sanctions regime administered by the Security Council.⁴³⁰ DPRK conducted missile test launches on 13 April 2012, 12 December 2012 and recently on 26 June 2014, as well as its third nuclear test on 12 February 2013.⁴³¹ Furthermore, in May 2014 ROK’s Ministry of Defense issued a statement indicating that preparations for a fourth nuclear test by DPRK appeared to be near completion.⁴³² DPRK’s actions sparked a new round of sanctions imposed through Security Council resolution 2087 (2013), including additional travel bans on DPRK individuals and asset freezes, and

⁴¹⁸ Konishi, *Denuclearizing North Korea. Exploring Multilateral Approaches to Risk Reduction and Peace Regime Building*, 2011, p. 3.

⁴¹⁹ Park, *Inside Multilateralism: The Six-Party Talks*, 2005, p. 83.

⁴²⁰ Konishi, *Denuclearizing North Korea. Exploring Multilateral Approaches to Risk Reduction and Peace Regime Building*, 2011, p. 14.

⁴²¹ Manyin & Nikitin, *Foreign Assistance to North Korea*, 2014, p. 2.

⁴²² *Ibid.*

⁴²³ *Ibid.*

⁴²⁴ *Charter of the United Nations*, 1945, Art. 2.

⁴²⁵ Security Council Report, *Chronology of Events. DPRK (North Korea)*, 2014.

⁴²⁶ BBC, *North Korean artillery hits South Korean island*, 2010.

⁴²⁷ Security Council Report, *Chronology of Events. DPRK (North Korea)*, 2014.

⁴²⁸ *Ibid.*

⁴²⁹ UN Security Council, *Statement by the President of the Security Council (S/PRST/2010/13 (2010))*, 2010.

⁴³⁰ Security Council Report, *Chronology of Events. DPRK (North Korea)*, 2014.

⁴³¹ *Ibid.*; The Guardian, *North Korea claims to have tested precision guided missile*, 2014.

⁴³² Reuters, *North Korea renews threat of nuclear test*, 2014.

resolution 2094 (2013), which also extended the mandate of the Panel of Experts assisting the 1718 Committee.⁴³³ Furthermore, on 15 July 2013, Panama detained DPRK-flagged ship Chong Chon Gang on its way through the Panama Canal from Cuba, after authorities had seized a weapons shipment hidden in a cargo of sugar.⁴³⁴

Following the seizure of the Chong Chon Gang and the violation of Security Council resolutions 1718 (2006), 1874 (2009), 2087 (2013) and 2094 (2009), the Council issued an Implementation Assistance Notice pertaining to the Chong Chon Gang case.⁴³⁵ The Implementation Assistance Notice informed UN Member States about the applied measures to conceal the illicit shipment and the management structures responsible for operating the shipment in order to strengthen the implementation of the sanctions regime and aid Member States' surveillance efforts.⁴³⁶ Although the Chong Chon Gang case violated the sanctions regime imposed on DPRK, the Security Council's Panel of Experts maintained that it "does not see new measures as necessary in order to further slow the prohibited programs of the Democratic People's Republic of Korea, to dissuade it from engaging in proliferation activities or to halt its trade in arms and related materiel."⁴³⁷ Nonetheless, the Panel of Experts asserted in February 2014 that DPRK is still dependent on foreign procurement of technical supplies to advance its ballistic missile program and nuclear fuel processing capacity.⁴³⁸ In line with the Panel's assertion, as well as recommendation issued by States Parties to the NPT at the Preparatory Committee for the 2015 Review Conference to work towards strengthening the implementation of the NPT's non-proliferation regime, future measures could aim at further promoting the effective application of nuclear non-proliferation activities which are already in place.⁴³⁹

Indirectly relating to calls for strengthening the application of existing nuclear non-proliferation activities, the non-governmental organization International Crisis Group issued a report on 5 August 2014 which pointed out considerable weaknesses in ROK's intelligence apparatus, and reiterated the need for high-quality intelligence information to adequately respond to challenges to international peace and security originating from the Korean peninsula.⁴⁴⁰ The report outlines that high-quality intelligence is essential to devise contingency plans for both military and non-conflict scenarios on the Korean peninsula, recommending an increase in intelligence sharing among regional powers.⁴⁴¹

Furthermore, the promotion of nuclear disarmament and provision of security assurances, regional issues, and peaceful uses of nuclear energy featured prominently throughout the meetings of the Preparatory Committee for the 2015 Review Conference, although the *Final report of the Preparatory Committee for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons* (2014) adopted at the committee's third session makes no direct reference to the denuclearization of the Korean peninsula.⁴⁴² The aforementioned issues were taken up and directly related to the denuclearization of the Korean peninsula in a report submitted by ROK at the third session of the Preparatory Committee for the 2015 Review Conference, emphasizing the need for abandonment of DPRK's nuclear program in a "verifiable and irreversible manner" and the "early resolution of the Democratic People's Republic of Korea nuclear issue is vital to ensuring the integrity of the global nuclear non-proliferation regime, as well as to securing peace on the Korean Peninsula and beyond".⁴⁴³

In addition, the fact that multilateral debates on the establishment of NWFZ, primarily in the Middle East, featured prominently during the third session of the Preparatory Committee for the 2015 Review Conference is of particular

⁴³³ Security Council Report, *Chronology of Events. DPRK (North Korea)*, 2014.

⁴³⁴ Ibid.

⁴³⁵ UN Security Council, *Implementation Assistance Notice No. 5: The M/V Chong Chon Gang Incident*, 2014.

⁴³⁶ Ibid.

⁴³⁷ UN Security Council, *Report of the Panel of Experts established pursuant to resolution 1874 (2009) (S/2014/147)*, 2014, p. 4.

⁴³⁸ Ibid.

⁴³⁹ UN Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Final report of the PrepCom for the 2015 RevCon of the Parties to the NPT (NPT/CONF.2015/1 (2014))*, 2014, p. 5-6.

⁴⁴⁰ International Crisis Group, *Risks of Intelligence Pathologies in South Korea*, 2014.

⁴⁴¹ Ibid.

⁴⁴² UN Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Final report of the PrepCom for the 2015 RevCon of the Parties to the NPT (NPT/CONF.2015/1 (2014))*, 2014, p. 6.

⁴⁴³ UN Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Implementation of the action plan of the Final Document of the 2010 RevCon of the Parties to the NPT. Report submitted by the Republic of Korea (NPT/CONF.2015/PC.I/13)*, 2012.

importance for upcoming negotiations on the denuclearization of the Korean peninsula at the Conference.⁴⁴⁴ While the situations in the Middle East and the Korean peninsula are characterized by different dynamics and actor constellations, efforts aiming to resolve the nuclear issue in the Middle East may serve as a guideline for negotiations on the denuclearization of the Korean peninsula at the 2015 Review Conference. Drawing on recommendations for follow-on actions agreed upon at the 2010 Review Conference, the Group of Non-Aligned States Parties to the Treaty called in a working paper for a prompt convention of a conference on the nuclear issue in the Middle East hosted by an external facilitator, including all regional and interested states.⁴⁴⁵ In line with the recommendations for follow-on actions of the 2010 Review Conference, the facilitator, Jaakko Laajava of Finland, was jointly appointed by the Secretary-General and the co-sponsors of the 1995 Resolution on the Middle East.⁴⁴⁶ The facilitator was mandated to consult with regional states on the implementation of a NWFZ in the Middle East and to coordinate preparations for the convention of a conference on the nuclear issue in the Middle East.⁴⁴⁷ In his report to the third session of the Preparatory Committee for the 2015 Review Conference, the facilitator also highlighted that the inclusion of civil society actors, academic institutions, and think tanks in negotiations may serve to foster regional dialogue.⁴⁴⁸

Conclusion

As outlined above, the denuclearization of the Korean peninsula includes a range of interconnected topics, including the disbandment of DPRK's nuclear weapons program, the establishment of a nuclear-weapons-free-zone in the region, and the prospects for international cooperation in assisting the peaceful use of nuclear energy for development purposes on the Korean peninsula. As the NPT provides States Parties with a mandate to act and cooperate on all of these topics, the 2015 Review Conference can serve as a key forum to promote the denuclearization of the Korean peninsula and achieve peace and stability in Northeast Asia. If the international community is to successfully promote the region's denuclearization, States Parties to the NPT need to take into account the diverging perceptions and priorities of the countries most affected by the nuclear situation on the Korean peninsula, and make use of the NPT's broad mandate to reverse the climate of mistrust and confrontation, which has dominated all multilateral efforts since the abandonment of the Six-Party Talks in 2009.

Further Research

Moving forward, delegates should consider the role of the UN and the 2015 Review Conference in denuclearizing the Korean peninsula, as well as possible measures that could be taken by Member States. Delegates should consider questions such as: What peaceful efforts can be taken to divert DPRK from its pursuit of nuclear weapons? Which measures need to be applied in both ROK and DPRK to promote the peaceful use of nuclear energy, while preventing the diversion of nuclear material to manufacture nuclear weapons in both countries? How can monitoring activities of DPRK's nuclear program be strengthened and how can the return of IAEA inspectors to DPRK be promoted? Is there a need to strengthen the cooperation between the various multilateral institutions involved in advancing the denuclearization of the Korean peninsula, particularly in sharing essential information on DPRK's nuclear weapons program? Bearing in mind the repeated breakdown of multilateral negotiations on the nuclear issue on the Korean peninsula, delegates should also consider steps to facilitate international cooperation on the issue, involving DPRK. How can cooperation between the countries involved in the Six-Party Talks be revitalized? Is there a need to initiate a new multilateral forum and establish novel institutional structures to address the challenges on the Korean peninsula, potentially involving both state- and non-state actors? Which lessons can be drawn from the efforts to establish a NWFZ in the Middle East, for instance with regard to the effectiveness of an external facilitator to promote multilateral negotiations or the inclusion of civil society? How can demands for security assurances by regional powers be met? Given the humanitarian crisis in DPRK, an essential part of delegates' research should also relate to the question of how DPRK's development assistance needs can be met, especially through strengthening cooperation on the peaceful use of nuclear energy.

⁴⁴⁴ UN Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Final report of the PrepCom for the 2015 RevCon of the Parties to the NPT (NPT/CONF.2015/1 (2014))*, 2014.

⁴⁴⁵ UN Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Regional Issues: Middle East. Working paper presented by the Group of Non-Aligned States Parties to the NPT (NPT/CONF.2015/PC.III/WP.2)*, 2014.

⁴⁴⁶ UN Preparatory Committee for the 2015 Review Conference of the Parties to the NPT, *Report by the facilitator to the third session of the PrepCom for the 2015 RevCon of the Parties to the NPT (NPT/CONF.2015/PC.III/18)*, 2014.

⁴⁴⁷ *Ibid.*

⁴⁴⁸ *Ibid.*

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Arms Control Association. (2011). *Time for Leadership: South Korea and Nuclear Nonproliferation* [Website]. Retrieved 9 August 2014 from: http://www.armscontrol.org/act/2011_03/SouthKorea

This website published by the Arms Control Association, “a national nonpartisan membership organization dedicated to promoting public understanding of and support for effective arms control policies,” provides an insight into the Republic of Korea’s role in the international non-proliferation regime. It contains information on ROK’s nuclear capacities and its status on compliance with its obligations under the Non-Proliferation Treaty and other international agreements relevant for negotiations on the denuclearization of the Korean peninsula. Furthermore, it outlines the cooperation between the IAEA and ROK, and the latter’s role in influencing negotiations on achieving peace and stability in the region.

Arms Control Association. (2012). *The Six-Party Talks at a Glance* [Website]. Retrieved 8 August 2014 from: <https://www.armscontrol.org/factsheets/6partytalks>

This website published by the Arms Control Association provides a detailed chronology of the six rounds of the Six-Party Talks. It illustrates both the achievements and setbacks during the talks and provides an insight into the domestic challenges in the parties involved in the talks, complicating cooperation on the issue. Furthermore, the website provides technical information on DPRK’s nuclear facilities and specific details on the sanctions regime administered by the UN Security Council 1718 Committee.

International Atomic Energy Agency. (2012). *Application of Safeguards in the Democratic People’s Republic of Korea. Report by the Director General (GOV/2012/36-GC(56)/11)*. Retrieved 1 August 2014 from: http://www.iaea.org/About/Policy/GC/GC56/GC56Documents/English/gc56-11_en.pdf

This is the latest report by the IAEA’s Director General on the application of safeguards in DPRK. It outlines previous efforts by the IAEA in verifying the complete application of the safeguards agreement between the IAEA and DPRK signed in 1992 and provides an overview over DPRK’s nuclear program. It also includes information on recent developments with regards to the relationship between DPRK and the IAEA and provides an insight into the monitoring activities of the IAEA in DPRK.

International Atomic Energy Agency. (n.d.). *IAEA and DPRK* [Website]. Retrieved 9 July 2014 from: <http://www.iaea.org/newscenter/focus/iaeadprk/index.shtml>

This website provides access to all reports and resolutions on DPRK’s nuclear weapons program adopted by the IAEA, as well as key UN Security Council documents and IAEA Member State communications. This is an essential resource for delegates as it provides access to all IAEA documents relating to DPRK’s nuclear activities, including annual reports on the application of DPRK’s safeguards agreement. The website features extensive background information on the nuclear situation on the Korean peninsula and aids delegates staying informed on all recent developments through a regularly updated news feed. The website also provides a detailed chronology of events outlining the IAEA’s involvement in the denuclearization of the Korean peninsula.

Konishi, W. (2011). *Denuclearizing North Korea. Exploring Multilateral Approaches to Risk Reduction and Peace Regime Building*. Institute for Foreign Policy Analysis. Retrieved 28 July 2014 from: <http://www.ifpa.org/pdf/DenuclearizingNorthKorea.pdf>

This publication by the Institute for Foreign Policy Analysis, an independent, nonpartisan research organization specializing in national security, foreign policy, and defense planning issues, presents the findings of a workshop held in 2011 entitled “Risk Reduction and Confidence-Building on the Korean Peninsula: Challenges, Opportunities, and Implications for Regional Stability.” Involving policy-makers and experts from the United States, China and the Republic of Korea, the publication helps delegates to understand the strategic preferences and priorities of the countries involved in the Six-Party Talks, and illustrates the prospects of a Korean Peninsula Peace Regime.

Nuclear Threat Initiative. (2014). *Treaty on the Non-Proliferation of Nuclear Weapons (NPT)*. Retrieved 10 July 2014 from: <http://www.nti.org/treaties-and-regimes/treaty-on-the-non-proliferation-of-nuclear-weapons/>

This website outlines all major developments and decisions taken at previous Review Conferences of the NPT. It provides an insight into multilateral discussion of the nuclear situation on the Korean peninsula during the Review Conferences and their respective Preparatory Committees. The website also allows delegates to search and filter news articles and reports on nuclear non-proliferation and related topics from the Nuclear Threat Initiative's (NTI) database. The material on the NPT was provided for the NTI, a non-profit, nonpartisan organization aiming "to strengthen global security by reducing the risk of use and preventing the spread of nuclear, biological, and chemical weapons," by the James Martin Center for Nonproliferation Studies at the Monterey Institute of International Studies.

Park, J. S. (2005). Inside Multilateralism: The Six-Party Talks. *The Washington Quarterly*, 28 (4): 73-91
This journal article by John S. Park, fellow at the Belfer Center for Science and International Affairs at Harvard University, provides an overview over the first three rounds of the Six-Party Talks. The article summarizes the developments that led to the start of the Six-Party Talks in August 2003 and discusses the involved parties' objectives and priorities in relation to the nuclear situation on the Korean peninsula. The article is published in The Washington Quarterly, the academic journal of the Center for Strategic and International Studies, a bipartisan non-profit organization which provides strategic insights and solutions to public policy-makers.

Shen, D. (2009). Cooperative Denuclearization toward North Korea. *The Washington Quarterly*, 32 (4): 175-188.
This journal article by Dingli Shen, professor of international relations and executive dean of the Institute of International Studies at Fudan University in Shanghai, outlines the strategic calculations underlying DPRK's actions in relation to its nuclear program. Furthermore, the article helps delegates to understand DPRK's strategic relevance to the People's Republic of China, and illustrates the US administration's approach to dialogue with DPRK adopted during President Obama's first term.

Security Council Report. (2014). *DPRK (North Korea)*. Retrieved 9 July 2014 from: <http://www.securitycouncilreport.org/dprk-north-korea/>

The nonpartisan, non-profit organization Security Council Report (SCR) provides detailed online publications on all meetings of the UN Security Council on the nuclear situation in DPRK. It also publicizes monthly forecasts on DPRK, outlining expected actions of the UN Security Council and recent developments on the Korean peninsula. Furthermore, the website provides access to key UN documents and a chronology of events relating to DPRK.

United States, Department of State. (2014). *Six-Party Talks, Beijing, China*. Retrieved 9 July 2014 from: <http://www.state.gov/p/eap/regional/c15455.htm>

The US Department of State published the official English text of the Joint Statement adopted at the Fourth Round of the Six-Party Talks in Beijing, China on 19 September 2005. The text provides delegates with an overview of the scope of the negotiations on the denuclearization of the Korean peninsula. It outlines the varying commitments made at the fourth round of the talks and reflects the concerns of the involved parties.

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