



# 2010 Non-Proliferation Treaty (NPT) Review Conference: Key Issues and Implications

**Paul K. Kerr, Coordinator**  
Analyst in Nonproliferation

**Mary Beth Nikitin, Coordinator**  
Analyst in Nonproliferation

**Amy F. Woolf**  
Specialist in Nuclear Weapons Policy

**Jonathan Medalia**  
Specialist in Nuclear Weapons Policy

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## Summary

The nuclear Non-Proliferation Treaty (NPT), which entered into force in 1970 and was extended indefinitely in 1995, is the centerpiece of international nuclear nonproliferation efforts. The NPT recognizes five nations (the United States, Russia, France, Britain, and China) as nuclear-weapon states; 189 countries are parties to the NPT. India, Israel, and Pakistan have never signed the treaty and possess nuclear weapons. North Korea acceded to the NPT but announced its withdrawal in 2003. Several countries, including Argentina, Brazil, and South Africa, ended their nuclear weapons programs and joined the NPT in the 1990s. Others—Ukraine, Belarus, and Kazakhstan—gave up former Soviet nuclear weapons on their territories and joined the NPT as non-nuclear-weapon states in the 1990s. Iraq had a nuclear weapons program prior to the 1991 Persian Gulf War. UN inspectors subsequently oversaw the program's dismantlement, and Iraq is now in full compliance with the NPT. Libya gave up a clandestine nuclear weapons program after a 2003 agreement. Iran was found in noncompliance with its International Atomic Energy Agency (IAEA) safeguards obligations in 2005, and the matter was referred to the UN Security Council. The IAEA has reported that Syria has not fully cooperated with an investigation into its nuclear activities.

There are three key dimensions, or “pillars,” of the NPT: nuclear nonproliferation, nuclear disarmament, and the peaceful use of nuclear energy. In exchange for non-nuclear-weapon states (NNWS) pledging not to acquire nuclear weapons, they are guaranteed access to the peaceful use of nuclear energy. For their part, the NPT nuclear-weapon states agree to pursue nuclear disarmament and not assist another country in developing nuclear weapons. The IAEA implements the treaty in as far as it is responsible for monitoring the peaceful use of nuclear energy and providing technical assistance to states.

Events in the past decade have stressed the nonproliferation regime. Revelations about illicit procurement networks, advancements in India and Pakistan's nuclear arsenals, North Korea's nuclear tests, Iran's defiance of UN Security Council resolutions regarding its nuclear program and noncompliance with IAEA safeguards, and questions about the Syrian nuclear program have all contributed to uncertainty over the robustness of the regime. There has been increased interest in nuclear power, placing additional resource demands on the IAEA. The United States and Russia continue formal efforts to reduce their nuclear arsenals. At the same time, several states have given up their nuclear weapons programs during the past decade, and countries have been working together to prevent illicit nuclear transfers and improve nuclear security.

Many see the 2010 NPT Review Conference, beginning on May 3, 2010, as an important test of the viability of the treaty and how it will evolve to meet new challenges. History suggests that the United States plays a leadership role in all aspects of the nonproliferation regime. The Obama Administration has emphasized in strategy documents that it views the NPT as the “centerpiece” of the nonproliferation regime and has pledged to strengthen the treaty. The Administration sees a linkage between the disarmament and nonproliferation commitments under the treaty. The 2010 Nuclear Posture Review, for example, says that progress on arms control is “a means of strengthening our ability to mobilize broad international support for the measures needed to reinforce the nonproliferation regime and secure materials worldwide.” The Nuclear Posture Review also says that the conditions for nuclear disarmament will not be possible without stronger proliferation controls. The ability of the Administration to garner international support for its proposals to strengthen the nonproliferation regime may be tested at the 2010 NPT Review Conference. This report will be updated as events warrant.

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## Introduction

The 2010 Review Conference for the Nuclear Non-Proliferation Treaty (NPT) will take place in New York from May 3-28, 2010. The NPT is considered to be the cornerstone of the international nuclear nonproliferation regime. Many analysts and observers believe the regime is under great stress at this time, and that the 2010 review conference will, therefore, hold major implications for future efforts to stem the proliferation of nuclear weapons. Some review conferences, such as those in 1995 and 2000, have been viewed as successes; others, like the one on 2005, have been seen as failures. A number of factors affect these assessments, but many analysts agree that the treaty may suffer irrevocable harm if the parties do not agree on a range of measures that will strengthen the treaty and address growing concerns about nuclear proliferation.

The Obama Administration has emphasized in strategy documents that it views the NPT as the “centerpiece” of the nonproliferation regime and has pledged to strengthen the treaty. The Administration sees a linkage between arms control and disarmament policies and progress in improving the nuclear nonproliferation measures. The 2010 Nuclear Posture Review, for example, says that progress on arms control is “a means of strengthening our ability to mobilize broad international support for the measures needed to reinforce the non-proliferation regime and secure materials worldwide.” The Nuclear Posture Review also says that the conditions for nuclear disarmament will not be possible without stronger proliferation controls. Over the years, NPT states without nuclear weapons, particularly from developing countries, have cited lack of progress on disarmament as the reason they do not support further tightening of nonproliferation rules. The ability of the Administration to garner international support for its proposals to strengthen the nonproliferation regime may be tested at the 2010 NPT Review Conference.

This report provides background information and analysis for Members of Congress and staff who are interested in following the discussions and debate at the Review Conference. The report includes a short summary of the provisions and goals of the NPT and a brief history of past review conferences. It also discusses the key issues that the participants are likely to address during the 2010 conference.

## Overview of the NPT

The nuclear Non-Proliferation Treaty (NPT),<sup>1</sup> which entered into force in 1970 and was extended indefinitely in 1995, is the centerpiece of the nuclear nonproliferation regime.<sup>2</sup> The NPT is complemented by International Atomic Energy Agency (IAEA) safeguards, national export control laws, coordinated export control policies under the Nuclear Suppliers Group (NSG), UN Security Council resolutions, and ad hoc initiatives. The NPT recognizes five nations (the United States, Russia, France, Britain, and China) as nuclear-weapon states,<sup>3</sup> and 189 countries are parties to the NPT.<sup>4</sup> India, Israel, and Pakistan have never signed the treaty and possess nuclear

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<sup>1</sup> Full text of the treaty can be found at <http://www.iaea.org/Publications/Documents/Infcircs/Others/infcirc140.pdf>

<sup>2</sup> The “nuclear nonproliferation regime” refers to international efforts to prevent the spread of nuclear weapons through treaties, export control coordination and enforcement, UN Security Council resolutions and other initiatives.

<sup>3</sup> The treaty defines nuclear-weapon states as those which have manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967.

<sup>4</sup> This number does not include North Korea.

weapons. North Korea ratified the NPT but announced its withdrawal in 2003.<sup>5</sup> Several countries, including Argentina, Brazil, and South Africa, suspended their nuclear weapons programs and joined the NPT in the 1990s. Others—Ukraine, Belarus, and Kazakhstan—gave up former Soviet nuclear weapons on their territories and joined the NPT as non-nuclear-weapon states in the 1990s. Iraq and Libya are now in full compliance with the NPT after their respective nuclear weapons programs were dismantled. Iran was found in noncompliance with its IAEA safeguards obligations in 2005, and the matter was referred to the UN Security Council. The IAEA has reported as recently as February 2010 that Syria has not fully cooperated with an investigation into its nuclear activities.

There are three key dimensions, or “pillars,” of the NPT: nuclear nonproliferation, nuclear disarmament, and the peaceful use of nuclear energy. The nuclear-weapon states and non-nuclear-weapon states have different obligations under the NPT, often referred to as the “NPT bargain”:

- In exchange for non-nuclear-weapon states (NNWS) pledging not to acquire nuclear weapons, they are guaranteed “the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy.” (NPT, Article IV-2)
- The nuclear-weapon states agree to “pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament” (NPT, Article VI), and agree not to assist the development of nuclear weapons by any non-nuclear-weapon state.

Non-nuclear-weapon NPT members are required to declare and submit all nuclear materials in their possession to regular IAEA inspections (safeguards) to ensure that nuclear materials and technologies are not diverted from civilian to military purposes. The IAEA also has a role in implementing Article IV of the NPT by providing technical assistance for peaceful applications of nuclear technology for energy, medical, and agricultural applications.

Events in the past decade have stressed the nonproliferation regime. Revelations about the A.Q. Khan proliferation network,<sup>6</sup> advancements in India and Pakistan’s nuclear arsenals, North Korea’s nuclear tests, Iran’s defiance of UN Security Council resolutions regarding its nuclear program and noncompliance with IAEA safeguards, and questions about the Syrian nuclear program have all contributed to uncertainty over the future of the regime. Moreover, there has been increased interest in nuclear power and an attendant increase in demands on the IAEA’s safeguards resources. At the same time, countries have been working together to interdict WMD transfers, improve nuclear security, and live up to requirements to control the transfer of technology under UN Security Council resolution 1540. Furthermore, the United States and Russia continue formal efforts to reduce their nuclear arsenals.

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<sup>5</sup> Whether North Korea is still an official member has not been determined by the treaty depositaries. There was some early debate over the legitimacy of North Korea’s withdrawal from the NPT for procedural reasons. However, UN Security Council resolutions call on North Korea to return to the NPT. White House Coordinator for Arms Control and WMD Proliferation Gary Samore said on April 22, 2010, that “as a technical legal matter we don’t recognize that they have withdrawn from the treaty.” [http://www.carnegieendowment.org/files/0421\\_transcript\\_samore.pdf](http://www.carnegieendowment.org/files/0421_transcript_samore.pdf).

<sup>6</sup> Former Pakistani nuclear official A.Q. Khan created a network of suppliers to procure nuclear weapons technologies for Pakistan. He also supplied Libya, North Korea, and Iran with technology and expertise related to uranium enrichment through this network.

Many see the 2010 NPT Review Conference as an important test of the viability of the treaty and how it will evolve to meet new challenges. The United States was instrumental in the negotiation of the NPT in the late 1960s and has played a leadership role in development of the nonproliferation regime ever since. As noted, the Obama Administration has prioritized nuclear nonproliferation in its foreign policy. For example, in September 2009, President Obama chaired a UN Security Council Summit that focused on nuclear nonproliferation. The Council unanimously adopted Security Council Resolution 1887, which outlined ways to strengthen the NPT and related nonproliferation measures. The United States is also the largest contributor to the IAEA. The Congressional Commission on the Strategic Posture of the United States concluded that U.S. leadership in nuclear nonproliferation, and in particular at the 2010 NPT Review Conference, is required to advance U.S. nonproliferation interests.<sup>7</sup>

## U.S. Policy Objectives

U.S. officials have emphasized that the primary objective for the Review Conference is to “strengthen all three pillars” of the NPT.<sup>8</sup> Susan Burk, the U.S. ambassador to the upcoming 2010 NPT review conference, stated during a January 2010 interview that U.S. priorities for the Review Conference include addressing cases of noncompliance, preventing abuse of the NPT’s withdrawal provisions, garnering additional resources for the IAEA and broader adherence to the Additional Protocol, and improving IAEA safeguards. Regarding the importance of a final conference document, she said that “it would be very positive if we could agree on a statement, a forward-looking statement ... [b]ut success can be defined in other ways as well.”<sup>9</sup>

Obama Administration officials have emphasized that they view strengthening the nonproliferation regime as a responsibility for non-nuclear-weapon states as well as nuclear-weapon states.<sup>10</sup> This would include treating cases of noncompliance “honestly and seriously.”<sup>11</sup> Ambassador Burk has said that a key U.S. objective is for the 2010 Review Conference discussions to give “valuable momentum” to efforts at the IAEA, the United Nations and the Conference on Disarmament to strengthen the nonproliferation regime.<sup>12</sup>

Some Members of Congress have expressed particular support for strengthened compliance measures as an outcome of the conference, and have stated that they view a strong statement on Iranian non-compliance with NPT requirements as a key objective of the review conference.<sup>13</sup> U.S. officials have maintained that Iran’s agreement would be necessary for a consensus document to be adopted. Although a consensus document is not required, past review conferences have traditionally sought one. Due to potential Iranian objections to U.S. proposals, some

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<sup>7</sup> *America’s Strategic Posture*, Final Report of the Congressional Commission on the Strategic Posture of the United States, 2009. <http://www.usip.org/strategic-posture-commission/view-the-report>

<sup>8</sup> For example, see Ambassador Susan Rice, Statement on the Fortieth Anniversary of the Nuclear Non-Proliferation Treaty, March 5, 2010.

<sup>9</sup> Available at [http://www.armscontrol.org/act/2010\\_03/Burk](http://www.armscontrol.org/act/2010_03/Burk).

<sup>10</sup> “Obama reaffirms his stance on nukes; South Africa has a crucial role to play in making the world a safer place, writes Robert Einhorn,” *The Star* (South Africa), August 26, 2009.

<sup>11</sup> U.S. House of Representatives Committee on Foreign Affairs, Hearing on “Stopping the Spread of Nuclear Weapons, Countering Nuclear Terrorism: The NPT Review Conference and the Nuclear Security Summit,” April 21, 2010.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

observers are skeptical that the conference will yield any practical results (see also “Possible Outcomes and Potential Impact”).

## **Past NPT Review Conferences**

NPT Member States are to “review the operation of the Treaty” every five years, as required by Article VIII of the Treaty. NPT states parties have met to review implementation of the treaty every five years since 1970, so this will be the eighth such meeting. NPT Preparatory Committee (PrepCom) meetings are held annually in the three years prior to the Review Conference. States have attempted to negotiate a consensus “final declaration” at each review conference. Consensus documents were adopted in 1975, 1985, 1995, and 2000. In 1980, 1990, and 2005 no document was agreed upon mainly due to disagreements between the non-aligned movement states and nuclear-weapon states over progress on nuclear disarmament (1980, 1990, 2005), access to peaceful nuclear technology (1980) or cases of non-compliance and the Middle East resolution (2005). However, adoption of a final document is not required, nor is adopting it by consensus.

The treaty does not specify what the review conferences should accomplish, other than the 1995 conference, which was to decide on extension of the treaty.<sup>14</sup> As part of the compromise package that approved indefinite extension of the NPT in 1995 and again in the 2000 Final Document, states agreed to a strengthened review process. The 1995 decision created PrepComs where states were to make recommendations to the review conferences and decide on procedural issues. The Review Conferences are traditionally structured by issue areas:

- Main Committee I discusses nonproliferation, disarmament and negative security assurances;
- Main Committee II examines nonproliferation and safeguards compliance as well as nuclear-weapon-free zones; and
- Main Committee III looks at access to the peaceful use of nuclear energy, universality of the treaty (meaning all countries joining the NPT) and other issues.

The 1995 decision also allowed for subsidiary bodies within each Main Committee for a focused look at particular issues.

## **The 1995 NPT Review and Extension Conference**

In 1995, treaty members approved a decision to continue the treaty in force indefinitely, the key U.S. policy goal. As part of an “extension package,” and to secure non-nuclear-weapon state support, NPT states adopted three decisions that strengthened the review process to oversee compliance with the treaty, outlined specific nonproliferation and disarmament steps, and called for universality of the treaty.<sup>15</sup> Key to securing Middle Eastern NPT members’ support for

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<sup>14</sup> The NPT states that “Twenty-five years after the entry into force of the Treaty, 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. This decision shall be taken by a majority of the Parties to the Treaty.”

<sup>15</sup> The full package of decisions is available at UN Office of Disarmament Affairs. “1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, 17 April - 12 May 1995, New (continued...)”

indefinite extension was the adoption of a Resolution that supported a nuclear-weapon-free zone in the Middle East (see **Appendix B**). The 1995 decisions and resolution were crucial in gaining the support of some non-nuclear-weapon states resistant to extending the treaty indefinitely, such as Indonesia, Mexico, and Egypt. Some of these states felt that the treaty should be extended for another 25 years, which in their view would give greater leverage to non-nuclear-weapon states to press the nuclear-weapon states on disarmament steps. Because indefinite extension was seen as being granted in exchange for the other decisions and resolution, review conferences since 1995 have also examined progress on the nonproliferation and disarmament steps, universality of the treaty (membership by all states), and the Resolution on the Middle East.

## The 2000 Review Conference Final Document

At the 2000 NPT Review Conference, two main blocs of states, the five nuclear-weapon states and the geographically diverse New Agenda Coalition,<sup>16</sup> negotiated “13 Practical Steps” that were part of a consensus final document. These steps (see **Appendix C**) entailed specific commitments to reduce the role and number of nuclear weapons. Such specificity was considered necessary because of the NPT’s vague language regarding disarmament. Assessment of implementation of the 1995 Middle East Resolution was a point of strong contention at the 2000 Review Conference, but states reached agreement on language before the meeting concluded. Addressing treaty compliance questions in Iraq and North Korea was also controversial for the conference but eventually agreement was reached. The 2000 Review Conference also condemned the 1998 nuclear tests by India and Pakistan.<sup>17</sup>

## Political Dynamics of the 2005 Review Conference

The 2005 Review Conference did not reach consensus, and that conference concluded without a final document. States could not agree on how to address the issue of Iranian noncompliance, because Iran’s approval was also needed for consensus. Egypt also held to its position on Middle East Nuclear-Weapon-Free zone issues (see **Appendix B** below). Another major point of contention in 2005 for Egypt and other states was the Bush Administration’s position that it was not obligated to fulfill the “13 Steps” agreed to in 2000. Several Bush Administration policies (such as opposition to Comprehensive Test-Ban Treaty ratification) directly contradicted those steps. Non-nuclear-weapon NPT states resisted agreeing to strengthened nonproliferation measures in the absence of progress on disarmament steps. The skepticism of non-nuclear-weapon states toward the weapon states’ commitment to the treaty continues today, although the Obama Administration made important progress on arms reductions and updating U.S. nuclear weapons policy in advance of the Review Conference.

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York,” <http://www.un.org/disarmament/WMD/Nuclear/1995-NPT/1995NPT.shtml>.

<sup>16</sup> The New Agenda Coalition (NAC) was formed in 1998 following the Indian and Pakistani nuclear tests and was meant to give new impetus to nuclear disarmament. The diverse geographic representation in its membership was also used as a bridge between the Western group and Non-Aligned countries at the 2000 NPT Review Conference. NAC members are Brazil, Egypt, Ireland, Mexico, New Zealand, South Africa and Sweden.

<sup>17</sup> 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, “Final Document,” volume 1, NPT/CONF/2000/28 (Parts I and II), p. 14, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/453/64/PDF/N0045364.pdf?OpenElement>.

## Issues for the 2010 Review Conference

The 2010 NPT Review Conference will be held from May 3 to 28 at the United Nations in New York. Ambassador Libran Cabactulan of the Philippines will serve as President of the conference. The NPT does not have its own Secretariat, but UN staff support the meeting. The 2009 PrepCom agreed to an agenda for the review conference based on the Main Committee structure of past review conferences.<sup>18</sup> It also discussed, but did not reach final agreement on, establishing subsidiary bodies on three issues: nuclear disarmament and security assurances; regional issues, including with respect to the Middle East and the implementation of the 1995 resolution on the Middle East; and “other provisions of the Treaty,” including Article X which covers treaty withdrawal.

The key controversies and challenges for U.S. policy makers during the review conference are discussed below in categories similar to the Main Committee structure of the review conference: disarmament, nonproliferation, and the peaceful use of nuclear energy, with separate sections devoted to non-NPT parties and the issue of a zone free of weapons of mass destruction in the Middle East.

It is worth noting that the ability of the United States to obtain some non-nuclear-weapon states’ cooperation on some U.S.-supported initiatives could be complicated by the Nuclear Suppliers Group’s (NSG’s) 2008 decision regarding India. That decision exempted New Delhi from the portions of the NSG guidelines requiring New Delhi to have full-scope IAEA safeguards. Since India obtained this benefit without joining the NPT or giving up its nuclear weapons, some countries may question the fairness of additional nonproliferation demands.

### Disarmament

Article VI of the nuclear Non-Proliferation Treaty states, “Each of the Parties to the treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.” This article, in outlining the disarmament obligations of the parties to the treaty, serves as one of the three “pillars” of the NPT that the parties will seek to strengthen during the 2010 NPT Review Conference.

Over the years, the parties to the NPT have not always agreed on the actions required by Article VI or on how to measure progress. For example, NPT members agreed in past consensus review conference documents that the entry into force of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) is an essential step in meeting Article VI obligations (see **Appendix C**). The United States, however, has not ratified the CTBT, and the Bush Administration indicated that it had no plans to do so. Instead, during the 2005 NPT Review Conference, the United States indicated it was in compliance with its Article VI obligations by pointing to the history of bilateral arms control treaties between the United States and Soviet Union and recent unilateral steps that the United States had taken to reduce its nonstrategic nuclear weapons and nuclear stockpile. It indicated that these steps represented “effective measures relating to the cessation of the arms race.” Although members of the NPT welcomed these steps, some questioned whether these

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<sup>18</sup> Final Report of the Preparatory Committee to the 2010 NPT Review Conference, NPT/CONF.2010/1, [http://www.un.org/ga/search/view\\_doc.asp?symbol=NPT/CONF.2010/1](http://www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2010/1).

measures were enough, and whether the nuclear-weapon states ought to take stronger steps on the path to disarmament. This section describes several possible steps and the way the issue might be addressed in the 2010 Review Conference.

### **The New U.S.-Russian START Agreement**

Most nations, including the United States, agree that reductions in the number of deployed and stored nuclear weapons are a clear indicator of compliance with Article VI. During the PrepComs leading up to the 2010 Review Conference, many of the participants called on the United States and Russia to negotiate a treaty to replace the 1991 START Treaty, which expired at the end of 2009, and to pursue reductions of deployed and nondeployed nuclear weapons. The United States and Russia signed this treaty on April 8, 2010. In his statement after signing the treaty, President Obama highlighted the relationship between this event and U.S. obligations under Article VI. He said that “we are keeping our commitments under the Nuclear Non-Proliferation Treaty, which must be the foundation for global non-proliferation.” President Obama went on to say that “this treaty will set the stage for further cuts. And going forward, we hope to pursue discussions with Russia on reducing both our strategic and tactical weapons, including non-deployed weapons.”<sup>19</sup> Moreover, President Obama has pledged his support to the eventual elimination of all nuclear weapons.<sup>20</sup>

### **The U.S. Nuclear Posture Review, Negative Security Assurances, and the NPT**

Some parties to the NPT have complained that the United States has undermined the nonproliferation goals of the treaty and interfered with the disarmament objectives with its nuclear policy and nuclear weapons programs. The Bush Administration concluded a Nuclear Posture Review (NPR) in early 2002.<sup>21</sup> Following the review, the Bush Administration proposed several new programs that might have led to the development of new nuclear weapons. The Bush Administration also sought to invest heavily in the U.S. nuclear weapons infrastructure. Moreover, some observers argued that the Bush Administration had increased U.S. reliance on nuclear weapons by threatening to use them in retaliation for chemical or biological weapons attacks.

The Obama Administration sought to address these concerns in its recently released Nuclear Posture Review (NPR).<sup>22</sup> It highlighted that nuclear proliferation, along with the threat of nuclear terrorism, were now primary security concerns for the United States and that Washington would adjust its nuclear posture with these concerns in mind. Specifically, the Administration pledged that, while the United States would maintain a safe, secure, and effective nuclear arsenal for as long as other nations maintained nuclear weapons, it would not design or develop any new nuclear weapons nor assign any new missions or capabilities to existing U.S. nuclear weapons.

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<sup>19</sup> “Remarks by President Obama and President Medvedev of Russia at New START Treaty Signing Ceremony and Press Conference,” April 08, 2010. Available at <http://www.whitehouse.gov/the-press-office/remarks-president-obama-and-president-medvedev-russia-new-start-treaty-signing-cere>.

<sup>20</sup> “I state clearly and with conviction America’s commitment to seek the peace and security of a world without nuclear weapons.” Remarks by President Obama, Prague, April 5, 2009. Full text at [http://www.whitehouse.gov/the\\_press\\_office/Remarks-By-President-Barack-Obama-In-Prague-As-Delivered/](http://www.whitehouse.gov/the_press_office/Remarks-By-President-Barack-Obama-In-Prague-As-Delivered/).

<sup>21</sup> “Nuclear Posture Review Released, Stresses Flexible Force Planning,” *Arms Control Today*, January/February 2002.

<sup>22</sup> Available at <http://www.defense.gov/npr/docs/2010%20Nuclear%20Posture%20Review%20Report.pdf>.

Moreover, the Obama Administration reaffirmed the U.S. negative security assurance, and linked it closely to efforts to strengthen the NPT when it stated, in the Nuclear Posture Review, that “the United States will not use or threaten to use nuclear weapons against non-nuclear weapons states that are party to the NPT and in compliance with their nuclear non-proliferation obligations.” The Administration said that “this revised assurance is intended to underscore the security benefits of adhering to and fully complying with the NPT and persuade non-nuclear-weapon states party to the Treaty to work with the United States and other interested parties to adopt effective measures to strengthen the non-proliferation regime.”

The Administration did indicate that the United States reserved the right “to make any adjustment in the assurance that may be warranted by the evolution and proliferation of the biological weapons threat and U.S. capacities to counter that threat.” But, for the most part, this new negative security assurance did narrow the range of circumstances under which the United States would consider using nuclear weapons and, therefore, reduced the role of nuclear weapons in U.S. national security strategy.

### **The Comprehensive Nuclear-Test-Ban Treaty and the NPT<sup>23</sup>**

As noted earlier in this report, two of the three pillars of the NPT regime are that the non-nuclear-weapon states will forgo nuclear weapons and the nuclear-weapon states will move toward nuclear disarmament. A ban on future nuclear testing is seen as fulfilling both disarmament and nonproliferation goals by curbing the qualitative development of nuclear weapons in weapons states and preventing new states from testing a nuclear weapon. NPT states have said in consensus documents at past review conferences that the Comprehensive Nuclear-Test-Ban Treaty (CTBT) is considered part of implementing Article VI commitments under the treaty. One element of the 1995 Review Conference documents was a call for completing negotiations on a CTBT no later than 1996.<sup>24</sup> The latter decision was instrumental in securing indefinite extension. The 2000 NPT Review Conference agreed to 13 “practical steps for the systematic and progressive efforts to implement Article VI” of the NPT, the first of which was the “early entry into force” of the CTBT.<sup>25</sup> To date, three of the five NPT nuclear-weapon states (Britain, France, and Russia) have ratified the CTBT, while China and the United States have not.

The Senate voted not to give its advice and consent to ratification of the CTBT in 1999, and U.S. policymakers and analysts continue to debate the merits of ratifying it. The Obama Administration is in favor of CTBT ratification, a change from U.S. policy toward the treaty under President George W. Bush. The Obama Administration’s Nuclear Posture Review (NPR), released in April 2010, says that United States “will not conduct nuclear testing and will pursue ratification and entry into force of the CTBT.” The NPR also says U.S. ratification would encourage NPT states, including China, and the non-NPT states to ratify the treaty.

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<sup>23</sup> For a detailed discussion, see CRS Report RL33548, *Comprehensive Nuclear-Test-Ban Treaty: Background and Current Developments*, by Jonathan Medalia.

<sup>24</sup> The CTBT was opened for signature on September 24, 1996. The CTBT decision is in Decision 2 of the 1995 package, “Principles and Objectives for Nuclear Non-Proliferation and Disarmament,” available at <http://www.un.org/disarmament/WMD/Nuclear/1995-NPT/1995NPT.shtml>.

<sup>25</sup> 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, “Final Document,” volume 1, NPT/CONF/2000/28 (Parts I and II), p. 14, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/453/64/PDF/N0045364.pdf?OpenElement>.

Much of the international community continues to view U.S. ratification of the CTBT as the touchstone of compliance with Article VI. For example, a report by the international WMD Commission in 2006 said that U.S. ratification of the treaty “would have more positive ramifications for arms control and disarmament than any other single measure.”<sup>26</sup> The 2010 International Commission on Nuclear Non-proliferation and Disarmament Report says that U.S. CTBT ratification would be the “circuit-breaker” in gaining ratification by other hold-out states.<sup>27</sup>

Some analysts argue that U.S. CTBT ratification would convince other countries to support U.S. initiatives to strengthen the nonproliferation regime and put pressure on those outside the regime.<sup>28</sup> As discussed elsewhere in this report, some non-nuclear-weapon states are resistant to supporting proposals for strengthened nuclear proliferation measures when the nuclear-weapon states have not fulfilled past commitments on nuclear disarmament.

On the other hand, it is not clear what specific steps on nuclear nonproliferation other nations would support only if the United States ratifies the CTBT, or what actions adverse to U.S. interests they might take if this nation does not ratify. Additionally, the United States has taken many steps over the years toward cessation of the nuclear arms race and nuclear disarmament, as outlined above.

### **The Fissile Material Cut-Off Negotiations and the NPT**

The United States first proposed more than 50 years ago that the international community negotiate a ban on the production of fissile material (plutonium and enriched uranium) that could be used in nuclear weapons. Negotiators of the NPT realized that fissile material usable for nuclear weapons could still be produced under the guise of peaceful nuclear activities within the treaty. Consequently, a fissile material production ban, or FMCT, has remained on the long-term negotiating agenda at the Conference on Disarmament (CD) in Geneva and has been endorsed by past NPT review conferences.

The Bush Administration supported a ban on the production of fissile material for weapons purposes but argued that such a ban is inherently unverifiable. In contrast, the Obama Administration supports the negotiation of an FMCT with verification measures. NPT Review Conferences in 1995 and 2000 have called for the immediate start of negotiations on a “non-discriminatory and universally applicable” convention. The start of FMCT negotiations are currently being blocked by Pakistan’s opposition.<sup>29</sup> The NPT review conference is likely to repeat its past calls to start negotiations on a verifiable treaty as soon as possible.

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<sup>26</sup> Weapons of Mass Destruction Commission, *Weapons of Terror: Freeing the World of Nuclear, Biological and Chemical Arms*, 2006, p. 107, [http://www.wmdcommission.org/files/Weapons\\_of\\_Terror.pdf](http://www.wmdcommission.org/files/Weapons_of_Terror.pdf).

<sup>27</sup> Gareth Evans and Yoriko Kawaguchi, *Eliminating Nuclear Threats*, Report of the International Commission on Nuclear Non-proliferation and Disarmament, 2009, <http://www.icnnd.org/reference/reports/ent/index.html>

<sup>28</sup> See, for example, Deepti Choubey, “The CTBT’s Importance for U.S. National Security,” Q&A, October 14, 2009, <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=23999>.

<sup>29</sup> Pakistan has made a number of procedural proposals, centered on the concept of “equal treatment” for all four core issues and calling for complex requirements for working group chairmen. The “equal treatment” of the four issues is problematic since many states are ready to negotiate an FMCT treaty, but only ready to discuss the other issues. The objections of Pakistan and China on procedural grounds have also raised concerns in the international community about their substantive commitment to concluding a fissile material cut-off treaty in the near future.

Like the CTBT, the FMCT is viewed by many as having disarmament and nonproliferation benefits. The five NPT nuclear-weapon states have already ceased fissile material production for weapons. Such a treaty has the potential to include the non-NPT nuclear-weapon states, which are subject to very few if any restrictions or monitoring, in a major multilateral disarmament measure. One key issue still under debate is whether or not such a treaty would seek to dispose of existing stocks of fissile material. The United States has strongly objected to such an approach, but it is supported by some non-nuclear-weapon states.<sup>30</sup>

## Nonproliferation and Compliance

### Safeguards

Every non-nuclear-weapon states party to the NPT is required to conclude a comprehensive safeguards agreement with the International Atomic Energy Agency (IAEA). Such agreements are intended to verify a state's compliance with its undertaking to accept safeguards on all nuclear material in all its peaceful nuclear activities and to verify that such material is not diverted to nuclear weapons or other nuclear explosive devices.<sup>31</sup> Comprehensive safeguards are designed to enable the IAEA to detect the diversion of nuclear material from peaceful purposes to nuclear weapons uses, as well as to detect undeclared nuclear activities and material.<sup>32</sup> Safeguards include ongoing agency inspections and monitoring of declared nuclear facilities.

The agency's inspections and monitoring authority in a particular country are limited to facilities that have been declared by the government. Additional Protocols to IAEA comprehensive safeguards agreements increase the agency's ability to investigate clandestine nuclear facilities and activities by increasing the IAEA's authority to inspect certain nuclear-related facilities and demand information from member states.<sup>33</sup>

### Noncompliance

Two NPT articles are particularly relevant to the question of compliance with safeguards agreements. Article III requires NPT non-nuclear-weapon states parties to adhere to their safeguards agreements. Article II states that non-nuclear-weapon states parties shall not "manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices" or "seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices."

Two sections of the IAEA Statute explain what the agency should do if an IAEA member state is found to be in noncompliance with its safeguards agreement.<sup>34</sup> Article III B. 4. of the statute states that the IAEA is to submit annual reports to the UN General Assembly and, "when appropriate," to the UN Security Council. If "there should arise questions that are within the competence of the

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<sup>30</sup> The states advocating inclusion of stocks refer to such a treaty as the Fissile Material Treaty (FMT).

<sup>31</sup> IAEA Safeguards Glossary. Comprehensive safeguards agreements are based on a model described in INFCIRC 153, available at <http://www.iaea.org/Publications/Documents/Infcircs/Others/infcirc153.pdf>.

<sup>32</sup> *Ibid.*

<sup>33</sup> Additional Protocols for an individual IAEA member state are based on the agency's Model Additional Protocol (INFCIRC/540), available at <http://www.iaea.org/Publications/Documents/Infcircs/1997/infcirc540c.pdf>.

<sup>34</sup> The text of the IAEA Statute is available at [http://www.iaea.org/About/statute\\_text.html](http://www.iaea.org/About/statute_text.html).

Security Council,” the article adds, the IAEA “shall notify the Security Council, as the organ bearing the main responsibility for the maintenance of international peace and security.”

Additionally, Article XII C states that IAEA inspectors are to report non-compliance issues to the agency’s Director-General, who is to report the matter to the IAEA Board of Governors. The board is then to “call upon the recipient State or States to remedy forthwith any non-compliance which it finds to have occurred,” as well as “report the non-compliance to all members and to the Security Council and General Assembly of the United Nations.”

### *Cases of Noncompliance*

Several past cases of noncompliance have been resolved by the IAEA. The Iraq Nuclear Verification Office was authorized by the Security Council to carry out inspections of Iraq’s undeclared nuclear program, and today Iraq is in compliance with its IAEA safeguards agreement and has signed an Additional Protocol. The IAEA also monitored the dismantling of Libya’s clandestine nuclear weapons program after Tripoli agreed in 2003 to end it. Libya now also has an Additional Protocol in force.<sup>35</sup> The IAEA was also called upon in 1991 to verify that the South African nuclear weapons program had been completely dismantled.<sup>36</sup> South Africa also has an Additional Protocol in force.

In some cases, questions arose about undeclared nuclear activities in a country during the course of IAEA investigations, such as in Egypt<sup>37</sup> and South Korea.<sup>38</sup> The IAEA Director-General reported his concern to the Board of Governors, but the Board did not make a determination of non-compliance in either case. In the case of South Korea, these questions arose in the process of acceding to its Additional Protocol. Questions about undeclared experiments were promptly resolved with Seoul’s full cooperation; the IAEA reported in 2007 that it had confirmed there were no undeclared nuclear activities in South Korea. In the case of Egypt, the Egyptian authorities were cooperative, and the IAEA did not find any link to military activities or a purposeful concealment strategy. However, because Egypt does not have an Additional Protocol in force, the IAEA is not able to confirm the absence of undeclared activities in the country as a whole.<sup>39</sup>

The nuclear programs of non-nuclear-weapon states, particularly Iran, North Korea, and Syria, are currently raised in discussions of noncompliance. The IAEA Board of Governors in 2005 found Iran to be in noncompliance with its safeguards obligations; some of its outstanding concerns have not been resolved.<sup>40</sup> The Board found North Korea in noncompliance with its safeguards agreement in 1993, and Pyongyang remains in noncompliance.<sup>41</sup> According to a

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<sup>35</sup> <http://www.iaea.org/NewsCenter/Focus/iaeaLibya/index.shtml>.

<sup>36</sup> Von Baeckmann, Dillon Perricos, “Nuclear Verification in South Africa,” *IAEA Bulletin*, January 1995.

<sup>37</sup> Paul Kerr, “Egypt’s Reporting Failures ‘Matter of Concern’,” *Arms Control Today*, March 2005.

<sup>38</sup> Introductory Statement of Director-General El Baradei to the IAEA Board of Governors, September 13, 2004, <http://www.iaea.org/NewsCenter/Statements/2004/ebsp2004n006.html>.

<sup>39</sup> Pierre Goldschmidt, “Safeguards Noncompliance: A Challenge for the IAEA and the UN Security Council,” *Arms Control Today*, January/February 2010.

<sup>40</sup> See CRS Report R40094, *Iran’s Nuclear Program: Tehran’s Compliance with International Obligations*, by Paul K. Kerr.

<sup>41</sup> See also CRS Report RL34256, *North Korea’s Nuclear Weapons: Technical Issues*, by Mary Beth Nikitin.

February 2010 IAEA report to the Board of Governors,<sup>42</sup> IAEA inspectors have found evidence that Syria may have conducted nuclear activities in violation of its safeguards agreement. The agency has been pressing Damascus to cooperate with the IAEA's investigation. The IAEA Board of Governors has not found Syria to be in noncompliance with its safeguards agreement.<sup>43</sup>

Some NPT states parties, including the United States, will likely address concerns about noncompliance by renewing calls for those states-parties who have not yet done so to conclude safeguards agreements and Additional Protocols. They may also call for increased resources for the IAEA. Resolution 1887 says that states parties without comprehensive safeguards agreements should conclude them "immediately." It also calls on all states parties to implement additional protocols to their safeguards agreements.<sup>44</sup>

## NPT Withdrawal

Some NPT states parties have been concerned, particularly after North Korea's 2003 announced withdrawal from the treaty, that other states parties could withdraw from the NPT after acquiring the capability to produce nuclear weapons.<sup>45</sup> North Korea's withdrawal is not yet formally recognized by the NPT depositaries, at least partly due to the fact that withdrawal from the treaty is unprecedented and procedures for how to address it in the treaty are undefined. Several countries have developed proposals for addressing this issue, although they do not involve amending the treaty or altering parties' right to withdraw from it. UN Security Council Resolution 1887 signaled the importance of this issue, stating that the Council "undertakes to address without delay any State's notice of withdrawal from the NPT, ...while noting ongoing discussions in the course of the NPT review on identifying modalities under which NPT States Parties could collectively respond to notification of withdrawal." Resolution 1887 also affirms that a state is accountable for violations of the treaty it may have made prior to its withdrawal. The United States and others will likely attempt to reach agreement on outlining immediate consequences for countries who withdraw from the NPT without cause. The European Union, for example, proposed in a working paper at the 2005 NPT Review Conference, that the withdrawing state be required to return all nuclear materials and equipment acquired while an NPT member.<sup>46</sup>

## Nuclear-Weapon-Free Zones

In addition to the NPT, several regions have treaties in force that ban the development, deployment, and use of nuclear weapons. Nuclear-weapon-free zones (NWFZs) reinforce the

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<sup>42</sup> IAEA, "Implementation of the NPT Safeguards Agreement in the Syrian Arab Republic," February 18, 2010, GOV/2010/11. Found at [http://isis-online.org/uploads/isis-reports/documents/IAEA\\_Report\\_Syria\\_18Feb2010.pdf](http://isis-online.org/uploads/isis-reports/documents/IAEA_Report_Syria_18Feb2010.pdf).

<sup>43</sup> It is worth noting that, in discussing compliance, some non nuclear-weapon states argue that the nuclear weapons states are not in compliance with their disarmament obligations under the NPT.

<sup>44</sup> Additional Protocols to IAEA comprehensive safeguards agreements increase the agency's ability to investigate clandestine nuclear facilities and activities by increasing the IAEA's authority to inspect certain nuclear-related facilities and demand information from member states.

<sup>45</sup> Article X of the NPT states, in part, that "[e]ach 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."

<sup>46</sup> "Withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons," NPT 2005 Review Conference Working Paper 32, submitted by the European Union, accessed at <http://www.reachingcriticalwill.org/legal/npt/RevCon05/wp/wp32.pdf>.

undertakings of NPT non-nuclear-weapon state members and are adhered to by most of the world. Article VII of the NPT says, “Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.” Regions with NWFZs are Latin America (Treaty of Tlatelolco), Central Asia (Treaty on a Nuclear-Weapon-Free Zone in Central Asia), the South Pacific (Treaty of Rarotonga), Africa (Treaty of Pelindaba), and Southeast Asia (Treaty of Bangkok). Mongolia has declared itself a single-state NWFZ. Also, the Treaty of Antarctica established that Antarctica will be used for peaceful uses only. Nuclear weapons are also banned on the seabed, in outer space, and on the moon by international treaties. Since the previous NPT review conference, the African and Central Asian nuclear-weapon-free zones have entered into force.

## Peaceful Uses of Nuclear Energy

Interest in alternatives to fossil fuel, energy security, and improved economic development conditions have led to a surge in interest in nuclear energy in many new countries. The United States has encouraged pursuit of nuclear energy and concluded new civilian nuclear cooperation agreements, but has tempered these efforts with caution over the proliferation risks of some aspects of the nuclear fuel cycle. President Obama proposed a “new framework for civil nuclear cooperation” that would include international fuel banks. The Administration is also looking to increase resources for the IAEA so that it will be able to perform its safeguards function in the face of expanded nuclear energy use.

Access to nuclear technology for civilian purposes has long been viewed as an incentive for non-nuclear-weapon states to comply with their NPT obligations. However, this incentive may have been weakened by the 2008 decision by the Nuclear Suppliers Group to exempt India from the portions of its guidelines requiring New Delhi to have full-scope IAEA safeguards.<sup>47</sup> This resulted in India, which is not a member of the NPT, gaining access to peaceful nuclear trade while maintaining a nuclear weapons capability. Some countries view this as contradictory to the goals of the NPT and this subject is likely to come up in debate at the review conference.

The IAEA Technical Cooperation (TC) program is one way NPT countries receive access to peaceful nuclear applications. The United States is the TC program’s largest donor. TC assistance is provided to states after a nonproliferation review and any transfers are under IAEA safeguards as required.

## Peaceful Use and Compliance

Article IV of the NPT says, “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 without discrimination and in conformity with Articles I and II of this Treaty.” A controversial topic for NPT states is whether the access to the “inalienable right” to peaceful use of nuclear energy for non-nuclear-weapon states is guaranteed even if the state is not meeting its safeguards obligations under Article III. Although the treaty itself does not make this direct connection, some argue that states should be able to access peaceful technology only

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<sup>47</sup> For more information, see CRS Report RL33016, *U.S. Nuclear Cooperation with India: Issues for Congress*, by Paul K. Kerr.

when in full compliance with their safeguards obligations.<sup>48</sup> In the 2000 NPT Review Conference Final Document, states agreed that “nothing in the 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 without discrimination and in conformity with articles I, II and III of the Treaty.” UN Security Council Resolution 1887 addresses this issue: “enjoyment of the benefits of the NPT by a State Party can be assured only by its compliance with the obligations thereunder.” However, some non-nuclear-weapon states argue that the right to the peaceful applications of nuclear energy should not be affected by unresolved safeguards issues and there is no legal stipulation in the NPT. Indeed, some technical cooperation programs to Iran, for example, continue despite the IAEA’s findings of noncompliance.

## Future of the Nuclear Fuel Cycle

Access to the full range of fuel cycle activities<sup>49</sup> is a major sticking point for some of the most vocal non-nuclear-weapon states in the developing world, such as Brazil, Egypt, Indonesia, Malaysia, and South Africa, some of whom do not want to accept either even voluntary limitations on this access, or strengthened safeguards under the Additional Protocol. The NPT does not forbid access to enrichment or reprocessing technologies, which can be used to produce both nuclear fuel and fissile material usable in a nuclear weapon. These technologies are required to be under IAEA safeguards. But in order to further discourage the spread of these technologies, states and the IAEA have proposed various options to create additional nuclear fuel supply assurances.<sup>50</sup> These issues likely to be debated at the review conference.

U.S. policy has sought to limit the spread of enrichment and reprocessing technology due to their military potential.<sup>51</sup> The Nuclear Suppliers Group (NSG) is negotiating a set of criteria that would be used to decide whether to authorize a future transfer of enrichment or reprocessing technology. Previously, such transfers were not banned under NSG rules but suppliers have exercised self-restraint.

Many developing countries are resistant to any changes to the rules that regulate nuclear commerce, as they perceive such restrictions as potentially limiting their access to economic and development benefits of nuclear energy under Article IV of the NPT. The Non-Aligned Movement is especially critical of both potential NSG restrictions on enrichment and reprocessing transfers and international fuel cycle initiatives more generally. Some developing countries also resist adoption of the IAEA Additional Protocol in their country. These states argue that the NPT does not limit their access to fuel cycle technology for peaceful use in any way and that only comprehensive IAEA safeguards are required by the treaty. In contrast, other states, as noted, view access to nuclear technology as conditional on a state’s nonproliferation behavior. The debate over access to fuel cycle technology is further complicated by Iran’s operation of an

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<sup>48</sup> See James Acton, “Deterring Safeguards Violations,” Carnegie Endowment for International Peace, 2009.

<sup>49</sup> The “fuel cycle” refers to a range of technologies needed to produce and dispose of nuclear fuel. Sensitive fuel cycle facilities include enrichment and reprocessing technology which can be used to produce fissile material for weapons.

<sup>50</sup> For a detailed discussion of these proposals, please see CRS Report RL34234, *Managing the Nuclear Fuel Cycle: Policy Implications of Expanding Global Access to Nuclear Power*, coordinated by Mary Beth Nikitin.

<sup>51</sup> In 2004, President Bush proposed a ban on any new country acquiring enrichment or reprocessing technology. The Bush Administration later amended its position and began negotiating, in the Nuclear Suppliers Group (NSG), a set of nonproliferation criteria that states importing such technology would need to meet. The Obama Administration now supports this criteria-based approach, but the NSG has not yet reached agreement on new guidelines.

enrichment plant and noncompliance with its safeguards agreements, as discussed above. Nevertheless, the vast majority of states do support the Additional Protocol, and to date the IAEA Board of Governors has approved 139 Additional Protocols and 96 are in force.<sup>52</sup> States at the review conference are likely to discuss how to universalize adherence to the Additional Protocol, which is a U.S. goal for the conference.

NPT states are also likely to discuss proposals related to multilateral solutions to provide fuel supply assurances or models for multilateral fuel cycle facilities. For example, a fuel bank under IAEA auspices has been proposed that would supply nuclear fuel to a state if supply was cut-off for reasons other than nonproliferation (such a bank would not be the regular fuel supplier). Another model creates multilateral ownership in a uranium enrichment facility at Angarsk, Russia. Despite the voluntary nature of participation in these models, some non-nuclear-weapon states, as evidenced in Non-Aligned Movement statements, are skeptical toward multilateral fuel assurance proposals. They argue that these are unnecessary in current market conditions and could constrain future technology acquisition. The countries in favor of multilateral approaches, including the United States, argue that these models provide an extra layer of assurance, would not replace market solutions, and would provide a disincentive for indigenous enrichment and reprocessing plants. The latter would have nonproliferation benefits and lessen the IAEA's safeguards burden.

## **Universality of the Treaty**

The refusal of India, Israel, and Pakistan to sign the NPT is an ongoing source of controversy that will likely be raised at the Review Conference.<sup>53</sup> The NPT states parties in 1995 cited the need for “universal adherence,” or membership by all countries in the NPT. Similarly, the final document from the 2000 conference reaffirmed “the long-held commitment of parties to the Treaty to universal membership.” The document made clear that non-signatories acceding to the NPT must give up their nuclear weapons.<sup>54</sup>

Security Council Resolution 1887, adopted in September 2009, similarly called upon non-signatories “to accede to the Treaty as non-nuclear-weapon States.” Moreover, Assistant Secretary of State for Verification, Compliance, and Implementation Rose Gottemoeller stated in May 2009 that “universal adherence to the NPT itself ... also remains a fundamental objective of the United States.”<sup>55</sup> It is not clear how the NPT states will address this issue at the Review Conference, beyond calling on non-NPT states to accede to the NPT and asking NPT states to work to achieve this, as was done in past review documents.

India and Pakistan both acknowledge possessing nuclear weapons; both countries conducted explosive tests of nuclear devices in 1998. The final document from the 2000 Review Conference

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<sup>52</sup> Status of Additional Protocols as of April 7, 2010, IAEA web-site, [http://www.iaea.org/OurWork/SV/Safeguards/sg\\_protocol.html](http://www.iaea.org/OurWork/SV/Safeguards/sg_protocol.html).

<sup>53</sup> North Korea announced its withdrawal from the NPT in 2003, but a determination on its withdrawal has not yet been made by the treaty depositories.

<sup>54</sup> The document stated that non-signatories acceding to the Treaty would be “accepting an international legally binding commitment not to acquire nuclear weapons or nuclear explosive devices and to accept IAEA safeguards on all their nuclear activities.”

<sup>55</sup> <http://www.un.org/disarmament/WMD/Nuclear/NPT2010Prepcom/PrepCom2009/statements/2009/05May2009/05May2009AMSspeaker-4-USA.pdf>.

stated that India and Pakistan's 1998 tests "do not in any way confer a nuclear-weapon-State status or any special status whatsoever." Both countries have claimed that, in principle, they are willing to pursue nuclear disarmament. However, India has said it would not join the NPT and would only disarm when other nuclear weapons states did so in a legally binding framework.<sup>56</sup> Recent Pakistani statements have indicated that Islamabad is unwilling to accede to the NPT as a non-nuclear-weapon state.<sup>57</sup>

Israel does not officially acknowledge possessing nuclear weapons, but has long said that it will not be the first to introduce them into the region.<sup>58</sup> All informed observers believe that Israel possesses nuclear weapons.<sup>59</sup> According to a 1974 U.S. National Intelligence Estimate, the intelligence community assessed that Israel "has produced and stockpiled a small number" of nuclear weapons. Israeli Prime Minister Ehud Barak on April 14, 2010, reiterated Israel's longstanding policy that it would not adhere to the NPT.

## WMD-Free Zone in the Middle East

The 1995 NPT Review Conference adopted a resolution that called for "all States in the Middle East to take practical steps" toward establishing "an effectively verifiable Middle East zone free of weapons of mass destruction, nuclear, chemical and biological, and their delivery systems, and to refrain from taking any measures that preclude the achievement of this objective." It also called for all NPT states parties, including the nuclear-weapon states, "to extend their cooperation and to exert their utmost efforts with a view to ensuring the early establishment by regional parties of a Middle East zone free of nuclear and all other weapons of mass destruction and their delivery systems."

Many NPT states parties have long argued in support of the concept of a nuclear-weapon-free zone in the region. Such a resolution was proposed to the UN Security Council in 1974, and similar provisions have been included in numerous Security Council and UN General Assembly resolutions. The final document of the 2000 conference reaffirmed "the importance" of the 1995 resolution.

Despite these statements of support, there has been no significant movement on the establishment of such a zone. A March 2010 working paper by Brazil, Egypt, Ireland, Mexico, New Zealand, South Africa, and Sweden asserted that "no progress has yet been achieved on the establishment

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<sup>56</sup> India's Prime Minister stated, "I wish to once again state that pending global nuclear disarmament, there is no question of India joining the Nuclear Non-Proliferation Treaty as a non-nuclear-weapon State." "Excerpts of the Prime Minister's Statement in Lok Sabha," *The Hindu*, July 29, 2009.

<sup>57</sup> See, for example, Recommendations for Achieving the Objective of Nuclear Disarmament and Nonproliferation of Nuclear Weapons, Position Paper Submitted by the Islamic Republic of Pakistan to the 2008 Disarmament Commission, April 30, 2008; and "Pakistan's Position towards UN Reform," from the Website of Pakistan's Mission to United Nations. Accessed April 21, 2010. Available at [http://www.pakun.org/unreform/index.php#Disarmament\\_and\\_Non\\_Proliferation](http://www.pakun.org/unreform/index.php#Disarmament_and_Non_Proliferation).

<sup>58</sup> "USA Pre-Briefed Israel on New Nuclear Policy - Deputy Foreign Minister," Voice of Israel Network B, April 7, 2010.

<sup>59</sup> Avner Cohen, *Israel and the Bomb* (New York: Columbia University Press), 1998, p. 1; "Completing the Deterrence Triangle," Carnegie Endowment for International Peace, Non-Proliferation Project, v. 3, no. 18, June 29, 2000; <http://www.armscontrol.org/factsheets/Nuclearweaponswhohaswhat.asp>; *The Future of the United Kingdom's Nuclear Deterrent*, December 2006, available at <http://www.fas.org/nuke/guide/uk/doctrine/sdr06/index.html>.

of a [Middle East] nuclear-weapon-free zone.”<sup>60</sup> A May 2009 Arab Group working paper contained a similar observation.<sup>61</sup> Some observers are concerned that continued lack of progress on this issue could erode continued support for the NPT. A recent Arms Control Association report noted that “[m]any non-nuclear-weapon states see the resolution as a linchpin of the [1995] decision to extend the NPT indefinitely.”<sup>62</sup> Indeed, the final document of the 2000 Conference described the 1995 resolution as “an essential element of the outcome of the 1995 Conference and of the basis on which” the NPT was indefinitely extended. Furthermore, the Arab Group working paper stated that “failure to give effect” to the 1995 resolution would undermine the NPT’s credibility “and the resolution to extend it indefinitely.”<sup>63</sup>

The Obama Administration has stated its support for the nuclear-weapon-free zone. Ambassador Susan Burk told a Washington audience March 31, 2010, that the United States supports the 1995 resolution and is “working very hard with partners in the region and elsewhere to try to see if we can come up with some concrete measures that would begin to implement this resolution or at least move it forward in some direction.”<sup>64</sup>

Supporters of the zone emphasize different aspects of nuclear proliferation in the region. Some focus on Israel’s nuclear program while others place greater emphasis on the potential threats from Iran’s and Syria’s nuclear programs. Furthermore, the recent Arms Control Association report noted that “Arab states, Iran, and the Group of Non-Aligned States as a whole ... are primarily concerned with Israel’s status as a nonparty to the NPT and de facto nuclear-weapon state,” while the European Union, Japan, and the United States “place greater emphasis on general disarmament in the region, calling on all Middle Eastern states to join the full complement of nonconventional arms control agreements,” such as the Chemical Weapons Convention and Biological Weapons Convention.<sup>65</sup> Some states, including Japan and Russia, have called for all states in the region to ratify the Comprehensive Test Ban Treaty.<sup>66</sup>

Egypt’s opinion on the 1995 resolution may be particularly influential during the upcoming Review Conference. Cairo’s obstructionism is widely cited as one reason for the outcome of the 2005 conference.<sup>67</sup> Egyptian statements indicate that Cairo’s opposition was prompted, in part, by its dissatisfaction with the lack of progress on the nuclear-weapon-free zone.<sup>68</sup> More recently, the country’s foreign ministry in April 2010 “underlined the importance” of the Conference adopting “specific measures to implement” a nuclear-weapon-free zone.<sup>69</sup> Egypt and the United States

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<sup>60</sup> Working Paper Submitted by Egypt on Behalf Of Brazil, Egypt, Ireland, Mexico, New Zealand, South Africa And Sweden as Members of the New Agenda Coalition, NPT/CONF.2010/WP.8, March 23, 2010.

<sup>61</sup> Implementation of the Resolution on the Middle East Adopted by the 1995 Review and Extension Conference of the NPT, NPT/CONF.2010/PC.III/WP.23, May 5, 2009.

<sup>62</sup> Cole Harvey, et al, *Major Proposals to Strengthen the Nuclear Nonproliferation Treaty*, Arms Control Association, March 2010.

<sup>63</sup> NPT/CONF.2010/PC.III/WP.23, May 5, 2009.

<sup>64</sup> Available at [http://www.carnegieendowment.org/files/0331\\_transcript\\_npt1.pdf](http://www.carnegieendowment.org/files/0331_transcript_npt1.pdf).

<sup>65</sup> Harvey et al., March 2010.

<sup>66</sup> Statement by H.E. Mr. Akio Suda, Third Session of the Preparatory Committee for the 2010 NPT Review Conference, May 8, 2009; Statement by the Delegation of the Russian Federation at the Third Session of the Preparatory Committee for the 2010 NPT Review Conference, May 8, 2009.

<sup>67</sup> Wade Boese, “Nuclear Nonproliferation Treaty Meeting Sputters,” *Arms Control Today*, July/August 2005.

<sup>68</sup> See, for example, H.E. Ambassador Ahmed Fathalla, Statement before the General Debate of the 2005 Review Conference of the NPT, May 3, 2005. Available at <http://www.un.org/en/conf/npt/2005/statements/npt03egypt.pdf>

<sup>69</sup> “Egypt Welcomes U.S. and Russia’s Intention to Sign a New Treaty on Reduction of Strategic Offensive Weapons,” (continued...)

have been engaged in bilateral discussions about the matter, but there is no public indication that they have reached agreement.

Egypt has submitted several proposals regarding this issue.<sup>70</sup> A March 2010 working paper called on Conference participants to

- reaffirm their “unequivocal commitment” to implement the 1995 Resolution;
- call on Israel to accede to the NPT as a non-nuclear-weapon state;
- refrain from transferring certain nuclear material or related equipment to Israel until the country has acceded to the NPT;
- convene an international conference by 2011 “to launch negotiations, with the participation of all States of the Middle East, on an internationally and effectively verifiable treaty for the establishment of a nuclear-weapon-free zone in the Middle East”;
- “establish a standing committee to follow up” on progress in implementing the 1995 resolution and to “undertake necessary preparations” for convening the above-mentioned conference; and
- disclose “all information available to them on the nature and scope of Israeli nuclear facilities and activities, including information pertaining to previous nuclear transfers to Israel.”<sup>71</sup>

Working papers from the Arab Group<sup>72</sup> and Libya,<sup>73</sup> as well as a statement from the Non-Aligned Movement,<sup>74</sup> have endorsed some of these measures.

For its part, Russia stated in 2009 that it supports holding a conference to “consider the prospects” for implementing all aspects of the resolution, but would like such a conference to address all WMD.<sup>75</sup> The European Union has also endorsed this proposal.<sup>76</sup>

Israel has expressed support for a WMD-free zone, but has emphasized that regional powers should resolve other regional security issues before negotiating such a zone. Sha’ul Horev,

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(...continued)

April 3, 2010.

<sup>70</sup> See, for example, *Implementation of the 1995 Resolution and 2000 Outcome on the Middle East: the Final Outcome of the Last Session of the Preparatory Committee*, NPT/CONF.2010/PC.III/WP.20, May 4, 2009; and *Implementation of the 1995 Resolution and 2000 Outcome on the Middle East*, NPT/CONF.2010/WP.14, March 23, 2010.

<sup>71</sup> NPT/CONF.2010/WP.14, March 23, 2010.

<sup>72</sup> NPT/CONF.2010/PC.III/WP.23, May 5, 2009.

<sup>73</sup> *Working Paper Submitted by the Libyan Arab Jamahiriya to the Preparatory Committee for the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons*, NPT/CONF.2010/PC.III/WP.10, April 17, 2009.

<sup>74</sup> Statement by H.E. Hasan Kleib to the Third Session of the Preparatory Committee for the 2010 NPT Review Conference, May 8, 2009.

<sup>75</sup> Statement by the Russian Federation, May 8, 2009.

<sup>76</sup> Statement by Mr. Pavel Klucky to the Third Session of the Preparatory Committee for the 2010 NPT Review Conference, May 13, 2009.

Director General of Israel's Atomic Energy Commission, explained the government's position September 2009:

It is our vision and policy, to establish the Middle East as a mutually verifiable zone free of weapons of mass destruction and their delivery systems. We have always emphasized, that such a process, through direct negotiations, should begin with confidence building measures. They should be followed by mutual recognition, reconciliation, and peaceful relations. Consequently conventional and non-conventional arms control measures will emerge ... In our view, progress towards realizing this vision cannot be made without a fundamental change in regional circumstances, including a significant transformation in the attitude of states in the region towards Israel.<sup>77</sup>

Other countries argue that establishing a Middle East WMD-free zone is necessary to improve the prospects for settling other regional disputes.<sup>78</sup>

## Possible Outcomes and Potential Impact

Many experts see the NPT 2010 Review Conference as a chance to renew obligations under the treaty—both the non-nuclear-weapons states' pledge to remain non-nuclear, and nuclear-weapon states' commitment to further disarmament steps. This could happen with or without a final consensus document, although observers tend to place importance on achieving consensus agreement. Former NPT Preparatory Committee Chairman Henrik Salander described a dilemma concerning the pursuit of consensus:

It is difficult to judge whether it is good to have a consensus outcome that governments can just barely accept. Are principled substantive positions better in the long run, even with failed conferences and no agreements, than pragmatic and practical compromises?<sup>79</sup>

Countries will likely have a higher degree of skepticism of any new promises coming out of the Review Conference because many pledges made at 1995 and 2000 Review Conferences remain unfulfilled. In general, however, the United States is likely to face an NPT membership that is largely cynical about U.S. intentions toward the NPT and fiercely defensive of its own right to access the full range of peaceful applications of nuclear energy. Despite a common view in Washington that progress has been made in improving the political climate in advance of the NPT meeting, according to some international observers, optimism after President Obama's Prague speech last spring has somewhat dissipated in the international diplomatic arena. After all, the CTBT has not been submitted to the Senate while the new START treaty has only just been concluded and is not yet in force. These are two key indicators of progress on Article VI for many NPT parties.

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<sup>77</sup> "Statement by Dr. Sha'ul Horev, Director General, Israel Atomic Energy Commission, to the 53<sup>rd</sup> General Conference of the International Atomic Energy Agency, September 2009," Israel Atomic Energy Commission, September 15, 2009.

<sup>78</sup> See, for example, Mr. Wael Al-Assad, Statement of the League of Arab States before the Third Preparatory Committee for the 2010 NPT Review Conference, May 6, 2009; and Statement by H.E. Ambassador Maged Abdel Fatah Abdel Aziz before the Third Session of the Preparatory Committee for the 2010 NPT Review Conference, May 4, 2009.

<sup>79</sup> Henrik Salander, "Principles and Process," *Arms Control Today*, April 2010.

More states may take the issue of noncompliance by Iran, and possibly Syria, more seriously following revelations in fall of 2009 about undisclosed an Iranian centrifuge plant as well as IAEA reports regarding the lack of cooperation by Iran and Syria with IAEA investigations. However, because Iran and Syria both participate in the Review Conference as member states, a consensus document that deals with these issues may be difficult to reach. Dr. William Potter has written about this dilemma:

I worry that the mistaken tendency to equate achievement of a consensus final document with a successful review outcome means shunting aside the most serious proliferation challenges, including but not limited to DPRK and Iranian nuclear brinkmanship, the Indian and Pakistani nuclear arms race, the threat of non-state actors and nuclear terrorism, and the continuing emphasis given to nuclear weapons in the security postures of the nuclear-weapon states.<sup>80</sup>

If a consensus review document is adopted, it could contain new forward-looking nonproliferation and disarmament proposals. Some analysts recommend that instead of measuring implementation of the treaty, a contentious point, states should pursue agreement on forward-looking objectives. Daryl Kimball of the Arms Control Association, for example, has called for an “action plan to strengthen and reaffirm the NPT.” Jean du Preez wrote that a forward-looking document could “serve as a lodestar to regain confidence in the treaty’s core bargains.”<sup>81</sup>

Agreement on many U.S. proposals or those contained in UN Security Council Resolution 1887 may be difficult to reach. However, it is also possible that a consensus document would reflect the status of agreement and disagreement on various NPT issues. Ambassador Susan Burk seems to be prepared for just such an outcome:

We are looking forward to working with our Treaty partners to try to identify areas where agreement on concrete measures to reinforce the global nuclear nonproliferation regime can be reached now, and on areas where further work and deliberation are needed so that agreement might be possible in the future.<sup>82</sup>

Other important aspects of the nuclear nonproliferation regime will not likely be discussed in detail at the NPT Review Conference. They were, however, addressed to some extent at the recent Global Nuclear Security Summit.<sup>83</sup> The NPT does not address proliferation of nuclear weapons to non-state actors. Some states have proposed that in the post-9/11 security environment, nuclear security issues should be a part of NPT discussions. UK Foreign Minister Milliband proposed that nuclear security become the “fourth pillar” of the NPT.<sup>84</sup> Also, EU nonproliferation representative Annalisa Giannella has said that since the NPT requires states to prevent proliferation, “one can argue that this obligation also implies the obligation to protect nuclear or

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<sup>80</sup> William C. Potter, “Nuclear Nonproliferation Priorities: 2010,” Paper prepared for the UN-ROK Joint Conference on Disarmament and Non-Proliferation, Jeju Island, November 16-18, 2009.

<sup>81</sup> Daryl Kimball, “Strengthening the NPT: Challenges and Solutions for the 2010 NPT Review Conference,” Remarks at the Carnegie Endowment, March 31, 2010. Jean du Preez, “Avoiding a Perfect Storm: Recharting the NPT Review Process,” *Arms Control Today*, April 2008. The International Commission on Nuclear Non-proliferation and Disarmament also recommended a 20-point statement on nuclear disarmament measures for NPT parties to adopt at the Review Conference. See <http://www.icnnd.org/reference/reports/ent/part-iv-16.html>.

<sup>82</sup> [http://www.carnegieendowment.org/files/0331\\_transcript\\_npt1.pdf](http://www.carnegieendowment.org/files/0331_transcript_npt1.pdf).

<sup>83</sup> See also CRS Report R41169, *Securing Nuclear Materials: The 2010 Summit and Issues for Congress*, by Mary Beth Nikitin.

<sup>84</sup> *Road to 2010*, <http://www.cabinetoffice.gov.uk/media/224864/roadto2010.pdf>.

radiological material.”<sup>85</sup> IAEA safeguards agreements under the NPT do require physical protection measures at declared facilities. Nuclear material security as well as efforts to detect or interdict illicit transfers may be discussed at the Review Conference, but some developing states prefer to address these issues in other fora such as IAEA meetings.

## Legislation in the 111<sup>th</sup> Congress

Senate Resolution 446, “Commemorating the 40<sup>th</sup> Anniversary of the Treaty on the Nonproliferation of Nuclear Weapons,” originally introduced by Senator Casey, was reported out of the Foreign Relations Committee and placed on the Senate legislative calendar on April 13, 2010. The resolution

- reaffirms congressional support for the NPT;
- urges the President to work toward universality of the Treaty;
- encourages the President to work with international partners on establishing the Additional Protocol as “the global standard for safeguards and a requirement for nuclear commerce”;
- calls for the IAEA to be provided the necessary resources, personnel and technology to conduct NPT oversight responsibilities; and
- encourages the strengthening of enforcement mechanisms and “collective responses” to any withdrawal from the NPT.

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<sup>85</sup> Daniel Horner, “Nuclear Security Summit Planned for March,” *Arms Control Today*, September 2009.

## **Appendix A. Text of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)**

The States concluding this Treaty, hereinafter referred to as the “Parties to the Treaty”,

Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples,

Believing that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war,

In conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

Undertaking to co-operate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities,

Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points,

Affirming the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon states,

Convinced that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in co-operation with other States to, the further development of the applications of atomic energy for peaceful purposes.

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

Urging the co-operation of all States in the attainment of this objective,

Recalling the determination expressed by the Parties to the 1963 Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end,

Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a Treaty on general and complete disarmament under strict and effective international control,

Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources,

Have agreed as follows:

## **Article I**

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

## **Article II**

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

## **Article III**

1. Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfillment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this Article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this Article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

2. Each State Party to the Treaty undertakes not to provide: (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this Article.

3. The safeguards required by this Article shall be implemented in a manner designed to comply with Article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international co-operation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or

production of nuclear material for peaceful purposes in accordance with the provisions of this Article and the principle of safeguarding set forth in the Preamble of the Treaty.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this Article either individually or together with other States in accordance with the Statute of the International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

## **Article IV**

1. 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 without discrimination and in conformity with Articles I and II of this Treaty.

2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also cooperate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

## **Article V**

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. Negotiations on this subject shall commence as soon as possible after the Treaty enters into force. Non-nuclear-weapon States Party to the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

## **Article VI**

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

## **Article VII**

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

## **Article VIII**

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one-third or more of the Parties to the Treaty, the Depositary Governments shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Thereafter, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.

3. Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, 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. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

## **Article IX**

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics and the United States of America, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated. Depositaries of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January, 1967.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

## **Article X**

1. 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.

2. Twenty-five years after the entry into force of the Treaty, 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. This decision shall be taken by a majority of the Parties to the Treaty.

## **Article XI**

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

## **Appendix B. Resolution on the Middle East (1995)**

The Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,

Reaffirming the purpose and provisions of the Treaty on the Non-Proliferation of Nuclear Weapons,

Recognizing that, pursuant to article VII of the Treaty, the establishment of nuclear-weapon-free zones contributes to strengthening the international non-proliferation regime,

Recalling that the Security Council, in its statement of 31 January 1992, a/ affirmed that the proliferation of nuclear and all other weapons of mass destruction constituted a threat to international peace and security,

Recalling also General Assembly resolutions adopted by consensus supporting the establishment of a nuclear-weapon-free zone in the Middle East, the latest of which is resolution 49/71 of 15 December 1994,

Recalling further the relevant resolutions adopted by the General Conference of the International Atomic Energy Agency concerning the application of Agency safeguards in the Middle East, the latest of which is GC(XXXVIII)/RES/21 of 23 September 1994, and noting the danger of nuclear proliferation, especially in areas of tension,

Bearing in mind Security Council resolution 687 (1991) and in particular paragraph 14 thereof,

Noting Security Council resolution 984 (1995) and paragraph 8 of the decision on principles and objectives for nuclear non-proliferation and disarmament adopted by the Conference on 11 May 1995,

Bearing in mind the other decisions adopted by the Conference on 11 May 1995,

1. Endorses the aims and objectives of the Middle East peace process and recognizes that efforts in this regard, as well as other efforts, contribute to, inter alia, a Middle East zone free of nuclear weapons as well as other weapons of mass destruction;
2. Notes with satisfaction that, in its report (NPT/CONF.1995/MC.III/1), Main Committee III of the Conference recommended that the Conference “call on those remaining States not parties to the Treaty to accede to it, thereby accepting an international legally binding commitment not to acquire nuclear weapons or nuclear explosive devices and to accept International Atomic Energy Agency safeguards on all their nuclear activities”;
3. Notes with concern the continued existence in the Middle East of unsafeguarded nuclear facilities, and reaffirms in this connection the recommendation contained in section VI, paragraph 3, of the report of Main Committee III urging those non-parties to the Treaty on the Non-Proliferation of Nuclear Weapons that operate unsafeguarded nuclear facilities to accept full-scope International Atomic Energy Agency safeguards;

4. Reaffirms the importance of the early realization of universal adherence to the Treaty, and calls upon all States of the Middle East that have not yet done so, without exception, to accede to the Treaty as soon as possible and to place their nuclear facilities under full-scope International Atomic Energy Agency safeguards;
5. Calls upon all States in the Middle East to take practical steps in appropriate forums aimed at making progress towards, inter alia, the establishment of an effectively verifiable Middle East zone free of weapons of mass destruction, nuclear, chemical and biological, and their delivery systems, and to refrain from taking any measures that preclude the achievement of this objective;
6. Calls upon all States party to the Treaty on the Non-Proliferation of Nuclear Weapons, and in particular the nuclear-weapon States, to extend their cooperation and to exert their utmost efforts with a view to ensuring the early establishment by regional parties of a Middle East zone free of nuclear and all other weapons of mass destruction and their delivery systems.

## Appendix C. “13 Practical Steps” (2000)

The Conference agrees on the following practical steps for the systematic and progressive efforts to implement Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons and paragraphs 3 and 4(c) of the 1995 Decision on “Principles and Objectives for Nuclear Non-Proliferation and Disarmament”:

1. The importance and urgency of signatures and ratifications, without delay and without conditions and in accordance with constitutional processes, to achieve the early entry into force of the Comprehensive Nuclear-Test-Ban Treaty.
2. A moratorium on nuclear-weapon-test explosions or any other nuclear explosions pending entry into force of that Treaty.
3. The necessity of negotiations in the Conference on Disarmament on a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices in accordance with the statement of the Special Coordinator in 1995 and the mandate contained therein, taking into consideration both nuclear disarmament and nuclear non-proliferation objectives. The Conference on Disarmament is urged to agree on a program of work which includes the immediate commencement of negotiations on such a treaty with a view to their conclusion within five years.
4. The necessity of establishing in the Conference on Disarmament an appropriate subsidiary body with a mandate to deal with nuclear disarmament. The Conference on Disarmament is urged to agree on a program of work which includes the immediate establishment of such a body.
5. The principle of irreversibility to apply to nuclear disarmament, nuclear and other related arms control and reduction measures.
6. An unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament to which all States parties are committed under Article VI.
7. The early entry into force and full implementation of START II and the conclusion of START III as soon as possible while preserving and strengthening the ABM Treaty as a cornerstone of strategic stability and as a basis for further reductions of strategic offensive weapons, in accordance with its provisions.
8. The completion and implementation of the Trilateral Initiative between the United States of America, the Russian Federation and the International Atomic Energy Agency.
9. Steps by all the nuclear-weapon States leading to nuclear disarmament in a way that promotes international stability, and based on the principle of undiminished security for all:
  - (a) Further efforts by the nuclear-weapon States to reduce their nuclear arsenals unilaterally.
  - (b) Increased transparency by the nuclear-weapon States with regard to the nuclear weapons capabilities and the implementation of agreements pursuant to Article VI and as a voluntary confidence-building measure to support further progress on nuclear disarmament.

- (c) The further reduction of non-strategic nuclear weapons, based on unilateral initiatives and as an integral part of the nuclear arms reduction and disarmament process.
  - (d) Concrete agreed measures to further reduce the operational status of nuclear weapons systems.
  - (e) A diminishing role for nuclear weapons in security policies to minimize the risk that these weapons ever be used and to facilitate the process of their total elimination.
  - (f) The engagement as soon as appropriate of all the nuclear-weapon States in the process leading to the total elimination of their nuclear weapons.
10. Arrangements by all nuclear-weapon States to place, as soon as practicable, fissile material designated by each of them as no longer required for military purposes under IAEA or other relevant international verification and arrangements for the disposition of such material for peaceful purposes, to ensure that such material remains permanently outside of military programs.
11. Reaffirmation that the ultimate objective of the efforts of States in the disarmament process is general and complete disarmament under effective international control.
12. Regular reports, within the framework of the NPT strengthened review process, by all States parties on the implementation of Article VI and paragraph 4 (c) of the 1995 Decision on “Principles and Objectives for Nuclear Non-Proliferation and Disarmament,” and recalling the Advisory Opinion of the International Court of Justice of 8 July 1996.
13. The further development of the verification capabilities that will be required to provide assurance of compliance with nuclear disarmament agreements for the achievement and maintenance of a nuclear-weapon-free world.

## **Author Contact Information**

Paul K. Kerr, Coordinator  
Analyst in Nonproliferation  
pkerr@crs.loc.gov, 7-8693

Mary Beth Nikitin, Coordinator  
Analyst in Nonproliferation  
mnikitin@crs.loc.gov, 7-7745

Amy F. Woolf  
Specialist in Nuclear Weapons Policy  
awoolf@crs.loc.gov, 7-2379

Jonathan Medalia  
Specialist in Nuclear Weapons Policy  
jmedalia@crs.loc.gov, 7-7632