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

11 May 2005
English
Original: Spanish

New York, 2-27 May 2005

Multilateral nuclear fuel cycle arrangements

Working document submitted by Argentina

1. In June 2004, the Director General of the International Atomic Energy Agency (IAEA) convened an Expert Group which, following various meetings and seven months of work, issued a report on multilateral approaches to the nuclear fuel cycle. From a reading of the report (NPT/CONF.2005/18), points were drawn up for your consideration on proposals related to the nuclear fuel cycle.

I. Introduction

2. Argentina firmly supports the international nuclear non-proliferation regime and is committed to working to achieve its universal and effective implementation. In that connection, it believes that the pillars of such a regime are based in the Treaty on the Non-Proliferation of Nuclear Weapons and the multilateral safeguards regime, both being supplemented by regional non-proliferation instruments such as the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco) or the Common System of Accounting and Control of Nuclear Materials established between Argentina and Brazil and its safeguards regime through the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials.

3. Cooperation in the peaceful uses of nuclear energy was, and still is, an essential part of the agreement that allowed the adoption of the Treaty on the Non-Proliferation of Nuclear Weapons. This is essentially reflected in paragraph 2 of article IV, whereby parties assume the obligation to cooperate with other States or international organizations to develop nuclear energy for peaceful purposes. Paragraph 1 of this article recognizes the inalienable right of all parties to develop research, production and use of nuclear energy for peaceful purposes. In reality, this right falls within the framework of an unquestionable general right to technological development, except where relinquished by agreement, which, in the case of the Treaty, is limited to nuclear weapons.

4. Renunciation of the development of nuclear weapons by States without nuclear weapons is counterbalanced by access to cooperation and the commitment by the five nuclear Powers to eliminate their nuclear arsenals.

II. The report of the experts

5. Argentina welcomed the Director General's initiative of convening the Expert Group on Multilateral Approaches to the Nuclear Fuel Cycle. Its report is a valuable input in exploring the options that multinational approaches would provide for increasing non-proliferation assurances in all aspects related to the complete nuclear fuel cycle, as well as their political, legal, technical and environmental viability and suitability.

6. Some proposals circulated on this topic before the Group was set up had a tendency to establish a limitation on the right of States to pursue technological developments in these fields, regardless of their record and conduct in the area of non-proliferation. According to this concept, that right could be reserved in the future only for a group of countries, or so that such activities are carried out through multinational approaches.

7. This criterion would point to the establishment of limitations on State sovereignty and independent ownership and control of a key technology sector, restricting the potential commercial benefits of these activities and technologies to just a few countries. The chapter referring to the future of these multilateral approaches echoes this concern. The report also mentions some of the options proposed in the restrictive sense described, including references to the fact that some of these are considered discriminatory while amendment of the Treaty to modify article IV is widely considered unacceptable.

8. In this respect, the report underscores the importance of article IV of the Treaty and the fact that all States parties now have the right to technological developments, insofar as these are not used to produce nuclear weapons and are in compliance with articles 1 and 2 of the Treaty. The report also points out that article IV confirms this inalienable right since it is clearly a pre-existing right under the Treaty and can therefore be amended or restricted only by an express agreement between the parties.

9. There are well-founded doubts about the viability and suitability of these multinational approaches being implemented universally as an effective means of strengthening the non-proliferation of nuclear weapons. The report states that there was no agreement among the experts in the Group on that point. In that regard, the report mentions that considerations on the political aspects of this matter are important in determining the perception about the viability and suitability of such multinational approaches.

10. One of the main merits of the report is that it recognizes that the multinational models applicable to the various stages of the complete nuclear fuel cycle depend on the will of their participants and so their exhaustive recommendations presuppose the existence of agreements between the States that decide to establish them. In that context, the report conducts a detailed analysis of options, with an evaluation of pros and cons, for each potential activity. It constitutes an appropriate guide, in that respect, for those who decide to establish multinational approaches.

11. The report also establishes, again with appropriate criteria, that a potential new international norm obliging activities related to the complete nuclear fuel cycle to be developed exclusively in the context of multinational approaches, and not as national activities, would involve a fundamental change to existing international

law, particularly with regard to the Treaty on the Non-Proliferation of Nuclear Weapons, and could only take place if transformed into a universal principle applying to all States and facilities related to those activities, without exception.

12. The existing multinational approaches used as models in the report, the advice of whose representatives the Expert Group was able to benefit from in its work, are undoubtedly successful examples from an economic and commercial point of view. However, their combined value in the field of non-proliferation appears more doubtful to the extent that most or all of these associations, as the case may be, comprise States that belong to the same economic and political organization and share a specific geographical space and central policies in the field of international security. Moreover, these multinational approaches also include nuclear-weapon States.

13. It is also important to emphasize that the report recognizes the role of IAEA in promoting the use of nuclear energy for peaceful purposes. This is of particular importance with respect to the task that the Agency should perform in assisting States parties in complying with their obligation to cooperate pursuant to paragraph 2 of article IV of the Treaty. This also underlines that this is a main function of the Agency, as important as that of non-proliferation.

14. The report also stresses the opinion of many States regarding the lack of sufficient progress on disarmament by the nuclear-weapon States in the context of article VI of the Treaty and the fact that this discourages some States from supporting new non-proliferation initiatives that would mainly have an impact on non-nuclear-weapon States. The same applies to the persistent delay in the initiation of negotiations on a verifiable Fissile Material (Cut-off) Treaty and the entry into force of the Comprehensive Nuclear-Test-Ban Treaty (CTBT).

15. It is also worth noting the importance that the report attaches to United Nations Security Council resolution 1540 (2004), which Argentina emphatically supports, and to the obligation that it imposes on all countries to adopt export controls on materials used in nuclear and other weapons of mass destruction.

16. One of the alternatives that the report analyses as an incentive for a State to forego the development of its own activities related to the complete nuclear fuel cycle, particularly as concerns enrichment and reprocessing, is to provide assurances of the supply of nuclear fuel based on various options. It should be pointed out that, in this respect, the report indicates that some States are not in a position to provide such an assurance in advance.

17. In summary, the report represents an important step in the search for alternatives to improve the nuclear non-proliferation regime and make it more effective and capable of helping to strengthen international peace and security. It is therefore a good basis for further study into the question of multilateral approaches to activities related to the complete nuclear fuel cycle.

III. Recommendations

18. Argentina is conscious that the regrettable events that have occurred recently in the area of nuclear non-proliferation justify trying alternative ways to confront such critical situations, with multinational approaches being one of the options. Consequently, the following elements need to be considered in relation to this topic.

19. At present, the obligation that complete nuclear fuel cycle activities should be developed only through multinational approaches is clearly not practicable.

20. In principle, it does not seem reasonable to consider any technology as intrinsically bad. Rather, it should be recognized that it is the use that can be made of them that could have negative connotations.

21. The importance of nuclear energy and its potential increase in the future is something generally recognized. All countries have the right to benefit from its potential for uses exclusively for peaceful purposes, in line with their own national priorities and objectives, and in conformity with international law, the general rules on non-proliferation and the need to eliminate threats to international peace and security.

22. In this respect, Argentina is convinced that the best method to strengthen and ensure nuclear non-proliferation is through the application of the existing elements in the international non-proliferation regime.

23. We would draw attention to any attempt to redefine the delicate balance of obligations contained in the Treaty on the Non-Proliferation of Nuclear Weapons, question its usefulness and relevance or, worse still, cast doubt on the rights of States to use technological developments for exclusively peaceful purposes. This could help to undermine the widely accepted system that the Treaty has created. Any proposal for the system to be modified that is seen as unfair by the international community as a whole, and that is aimed at establishing rights and obligations with a universal scope, could be condemned to failure and runs the risk of weakening the entire structure of the international non-proliferation system, which Argentina emphatically supports.

24. The merits of the Treaty are obvious. Its regime should therefore be strengthened and universalized, and its principles considered the acceptable international standard for conduct in the area of non-proliferation. The trade-off for these rights is that the international community must act effectively to prevent and sanction violations of the international non-proliferation regime, in all cases.

25. In accordance with paragraph 318 of the report (NPT/CONF.2005/18), Argentina believes that non-proliferation objectives can be better achieved through effective and efficient implementation of the existing elements in the international regime specifically designed for that purpose, such as: the implementation of safeguards, since these constitute a truly multinational approach in themselves; seeking to ensure the universality of the additional protocol; judicious implementation of the additional protocol and in keeping with risk analysis, not in a mechanistic or systematic way; implementing cost-effective safeguards; and being prepared to sanction those who commit serious violations of the regime, including through the Security Council, if appropriate.

26. The Agency should act as a guarantor of this objective through the dual roles of clarifying the peaceful nature of the nuclear programmes, where appropriate, and reporting facts that cast doubt on that peaceful nature, where necessary. In addition, where considered appropriate, it should help place limits on the development of activities considered sensitive, in specific and justified cases when international security is affected.

27. It should be pointed out that the international non-proliferation system and its safeguards regime, even in their present state, provide legal and political mechanisms to address proliferation risks and take actions against those States that are found in violation of the letter or spirit of relevant international norms and standards, or that represent a threat to international peace and security. For the effective implementation of such a system, the members of the international community need to agree. A properly implemented collective security system could be more effective and appropriate in tackling cases of proliferation than seeking to impose on all States general new restrictions on the right to develop and acquire technologies related to the peaceful uses of nuclear energy, including those States that are in perfect compliance with international norms on the non-proliferation of nuclear weapons.
